# DOCUMENT RESUME

ED 454 764 HE 034 121

| | |
|---|---|
| TITLE | Student Financial Aid Handbook, 2001-2002. Volume 2: Institutional Eligibility and Participation. |
| INSTITUTION | Department of Education, Washington, DC. Student Financial Assistance. |
| PUB DATE | 2001-00-00 |
| NOTE | 350p.; For volume 1, see HE 034 120. For volumes 3-9, see HE 034 122-128. |
| AVAILABLE FROM | ED Pubs, P.O. Box 1398, Jessup, MD 20794-1398. Tel: 877-433-7827 (Toll Free), Web site: http://www.ifap.ed.gov. |
| PUB TYPE | Guides - Non-Classroom (055) |
| EDRS PRICE | MF01/PC14 Plus Postage. |
| DESCRIPTORS | *Colleges; Eligibility; *Federal Aid; Financial Aid Applicants; Grants; Higher Education; *Institutional Characteristics; Need Analysis (Student Financial Aid); *Participation; Paying for College; Student Financial Aid; Student Loan Programs; Work Study Programs |

ABSTRACT

The purpose of this publication is to describe how a school becomes eligible to participate in the Student Financial Assistance (SFA) programs and to explain the administrative and fiscal requirements of SFA program participation. In addition, this publication discusses other issues relevant to the general administration of the SFA programs. Major changes are summarized by chapter. The chapters are: (1) "Institutional and Program Eligibility"; (2) "General Participation Requirements"; (3) "Administrative Capability"; (4) "Financial Responsibility"; (5) "Cash Management"; (6) "Return on Title IV Funds"; (7) "Consumer Information"; (8) "Recordkeeping and Disclosure"; (9) "Agreements between Schools"; (10) "Applying for and Maintaining Participation in the SFA Programs"; (11) "Program Integrity"; and (12) "Distance Education." (SLD)

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HE volume 2

STUDENT FINANCIAL AID HANDBOOK

2001-2002

ED 454 764

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# Institutional Eligibility and Participation

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student financial assistance
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2

# Student Financial Aid Handbook

## Volume 2 of 9

Application and Verification Guide

Student Loan Guide

Volume 1: Student Eligibility

**Volume 2: Institutional Eligibility and Participation**

Volume 3: Pell Grant Program

Volume 4: Campus-Based Common Provisions

Volume 5: Perkins Loans

Volume 6: Federal Work-Study

Volume 7: Federal Supplemental Educational Opportunity Grants

Volume 8: Direct Loan and FFEL Programs

Volume 9: State Grant Programs

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**Web Version:** www.ifap.ed.gov
**For Further Technical Assistance:**
sfa_customer_support@ed.gov or
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SCHOOLS CHANNEL

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# Introduction

*The purpose of this publication is to describe how a school becomes eligible to participate in the Student Financial Assistance (SFA) programs and to explain the administrative and fiscal requirements of SFA program participation. In addition, this publication discusses other issues relevant to the general administration of the SFA programs.*

---

This chapter provides a *summary* of the changes and clarifications presented in greater detail in the chapters that follow. Alone, the text here does **not** provide schools with the guidance needed to satisfactorily administer the Title IV, HEA programs. For more complete guidance, you should refer to the text in the chapters cited, the Code of Federal Regulations (CFR) and the Higher Education Assistance Act (HEA) as amended.

Throughout this volume, new information is indicated with the following symbol.

**New**

When the text represents a clarification rather than a change, it is indicated with this symbol.

**Clarification**

## MAJOR CHANGES BY CHAPTER:

### *Chapter 1– Institutional and Program Eligibility and Chapter 2 – General Participation Requirements*

√ In the regulations describing an eligible program, we have modified the definition of a week of instructional time to clarify that homework does not count as instructional time. In the regulations describing an academic year, we have modified the definition of instruction(al) time to clarify that homework does not count as instructional time. In addition, we make clear that, in terms of preparation for examinations, only study for final examinations that occurs after the last scheduled day of classes for a payment period counts as instructional time.

**Eligible Program Cite**
*34 CFR 668.8(b)(3) and (4)*

***Academic Year Cite***
*34 CFR 668.2b(2)*

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If an institution provides an educational program using a semester, trimester, or quarter system, or in clock hours, a week of instructional time in that program must contain

1. at least one day of regularly scheduled instruction or examinations; or

2. after the last scheduled day of classes for a term, at least one day of study for initial examinations.

If an institution provides an educational program using credit hours but not a semester, trimester, or quarter system, a week of instructional time in that program must contain

1. at least 12 hours of regularly scheduled instruction or examinations; or

2. after the last scheduled day of classes for a payment period, at least 12 hours of study for final examinations.

Moreover, instructional time does not include periods of vacation, homework, periods of orientation or counseling.

## Chapter 3: Administrative Capability

**Relying on NSLDS for Financial Aid History Cite**
*34 CFR 668.19*

√ The new regulations eliminate the paper Financial Aid Transcript (FAT) requirement for all students and mandate the use of NSLDS data for purposes of obtaining financial aid history information.

The regulations make a distinction between two types of transfer students. For a prior-year transfer, an institution may continue to rely on the Institutional Student Information Report (ISIR) financial aid history information it receives for that student. For a current-year transfer student, under the new regulations, instead of requesting a paper FAT from the former institution, the new institution requests updated student eligibility information from NSLDS.

The new regulations also replace the various certification, origination, and disbursement provisions in the former rules with only one requirement: an institution may not make a disbursement of Title IV, HEA program funds to a current-year transfer student for seven days after it requests updated information from NSLDS. An institution may make a disbursement to a student who is otherwise eligible if, within the seven-day period, NSLDS provides the updated information to the institution, or the institution obtains the information itself directly from NSLDS.

Finally, the new regulations eliminate the requirement that an institution that receives a request for the completion of a paper FAT, must respond to that request. **However, through July 1, 2001 in all cases where a new institution or student requests a paper FAT, the former institution must complete and promptly return the FAT.**

## Chapter 5: Cash Management

√ Institutions are required to notify to a student or parent borrower when Title IV, HEA program loan proceeds are used to credit the student's account at the institution. Formerly, the regulation allowed this notice to be sent electronically, but required the student or parent to confirm receipt of the notice and the institution to maintain a copy of that confirmation.

The requirement that the institution compel a student or parent to confirm receipt has been eliminated. The new regulation requires the institution confirm receipt of electronic notices by the student or parent and to maintain documentation of that confirmation.

**Notification Cite**
*34 CFR 668.165(a)(3)(ii)*

## Chapter 6: Withdrawals

√ In December 2000 we published a Dear Colleague Letter (DC-GEN-00-24) that answered many of the questions participating schools had asked about the Return to Title IV Funds requirement. These answers and additional clarifications have been incorporated into chapter 6.

## Chapter 8: Record Keeping and Disclosure

√ Regulations require an institution to establish and maintain program and fiscal records that include, among other things, a certification that each FWS student has worked and earned the amount being paid. Formerly, the regulations required that the certification be handwritten and include the signature of the FWS student's supervisor.

The new regulations give institutions the option of continuing to have a FWS student's supervisor sign his or her name on a paper certification. However the new regulations remove the requirement that the certification have the handwritten signature of the FWS student's supervisor. **This change does not remove the certification requirement** that helps ensure that the supervisor is reviewing the time record prior to paying the student.

Rather the change provides flexibility to institutions by allowing the use of an electronic certification or a certification through other appropriate means.

**FWS Record Keeping Cite**
*34 CFR 675.19(b)*

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An institution that chooses to use a system that incorporates an electronic certification must adopt reasonable safeguards against possible fraud and abuse. The institution should provide a secure electronic certification through an electronic payroll system that includes:

1. password protection;
2. password changes at set intervals;
3. access revocation for unsuccessful log-ins;
4. user identification and entry point tracking;
5. random audit surveys with supervisors; and
6. security tests of the code access.

## *Chapter 9: Agreements Between Schools*

**Written Agreements Between Schools Cite**
*34 CFR 668.5*

√ Previously, Section 600.9 of the Institutional Eligibility regulations and Section 690.9 of the Federal Pell Grant Program regulations governed written agreements between a student's eligible home institution and a second institution or organization when all or part of a student's educational program is provided by the second school or organization.

These agreements are commonly referred to as consortium and contractual agreements. We removed and reserved 34 CFR 600.9 and 34 CFR 690.9 and consolidated most of the provisions previously contained in those sections into a new 34 CFR 668.5. This consolidation not only makes the regulations easier to use, it also makes it clear that the provisions apply to all of the Title IV student assistance programs and not just to the Federal Pell Grant Program

***Agreements with Study-Abroad Organizations***
*34 CFR 668.5(b)*

The new regulations permit an eligible institution to have a written agreement with a study-abroad organization that represents one or more foreign institutions instead of separate agreements directly with each foreign institution that its students are attending.

***Disbursing Funds Cite***
*34 CFR 668.5(d)(2)*

For purposes of administering the Title IV, HEA programs, and the written agreement between the eligible institution and the study abroad organization must adequately describe the duties and responsibilities of each entity and meet the requirements of the regulations. When there is a written arrangement between eligible institutions, any of the institutions participating in the written arrangement may make Title IV, HEA program calculations and disbursements without that institution being considered a third-party servicer. This is true even if the student is not taking courses at the institution that is calculating and disbursing the aid.

## *Chapter 10: Applying for and Maintaining Participation in the SFA Programs*

√ The regulations clarified that a currently designated eligible institution that participates in the Title IV, HEA programs must, among other requirements, reapply if the institution wishes to reestablish eligibility and certification after the institution changes its status as a proprietary, nonprofit, or public institution.

**Reapplication Cite**
*34 CFR 600.20(b)(2)*

√ The Department does **not** consider that a public institution has undergone a change in ownership that results in a change of control if there is a change in governance and the institution after the change remains a public institution, provided

1. the new governing authority is in the same state as included in the institution's program participation agreement; and
2. the new governing authority has acknowledged the public institution's continued responsibilities under its program participation agreement.

However, within 10 days of undergoing a change in governance, public institutions must report that change to the Department.

**Changes in Ownership or Control of Public Institutions Cite**
*34 CFR 600.31(c)(7)*

√ We clarified and amended the changes that an institution must **report** to the Department within ten days:

1. **the individual the institution designates as its Title IV, HEA program administrator;**
2. the closure of a branch campus or additional location that the institution was required to report;
3. a decrease in the level of program offering (e.g. the institution drops its graduate programs;
4. its name, the name of a branch, or the name of a previously reported location;
5. its address, the address of a branch, or the address of a previously reported location;
6. the way it measures program length (e.g., from clock hours to credit hours, or from semester hours to quarter hours);
7. a person's ability to affect substantially the actions of the institution if that person did not previously have this ability; and
8. the governance of a public institution.

**Updating Information Cite**
*34 CFR 600.21(a)*

**Reporting Requirements Cite**
*34 CFR 600.21(a)*

√ The revisions amend the list of positions or persons that are deemed to substantially affect the actions of the institution, eliminating members of an institution's board of directors or trustees. The regulations now clearly identify a general partner, the chief executive officer, chief financial officer, and the individual designated as the lead program administrator for Title IV, HEA programs at the institution as those who have the ability to substantially affect an institution's administration of the Title IV, HEA programs.

An institution that is owned by a publicly traded corporation that experiences the material changes described in 34 CFR 600.21(a)(6) must notify the Department when it notifies its accrediting agency, but no later than ten days after the change is known to the institution.

**Updating for Additional Locations Cite**
*34 CFR 600.21(a)(3)*

√ In addition, all institutions are required to report to the Department adding an additional accredited and licensed location where they will be offering 50 percent or more of an eligible program if the institution wants to disburse Title IV, HEA program funds to students enrolled at that location.

**Disbursement Rules at Additional Locations Cite**
*34 CFR 600.21(d)*

√ Institutions must **not** disburse Title IV, HEA program funds to students at that location before the institution has reported that location to the Department. Once it has reported a new licensed accredited location and provided all required supporting documents, unless it is an institution that is required under 34 CFR 600.20 (c)(1) to apply for approval for a new location, an institution may disburse Title IV, HEA program funds to students enrolled at that location.

**Applying to Expand Eligibility Cite**
*34 CFR 600.20(c)(1)*

√ If an institution meets one or more of the following criteria, it must apply for and wait for approval before disbursing Title IV, HEA program funds at an additional location where it will be offering 50 percent or more of an eligible program.

An institution must apply if the institution

1. is provisionally certified;
2. is on the cash monitoring or reimbursement system of payment;
3. has acquired the assets of another institution that provided educational programs at that location during the preceding

year, and the other institution participated in the Title IV, HEA programs during that year;

4. would be subject to a loss of eligibility under the cohort default rate regulations (34 CFR 688.188) if it adds that location; or

5. if the Department previously instructed the institution that it must not disburse Title IV, HEA program funds to students enrolled at an additional location before the Department notifies the institution that the location is eligible to participate.

√ The changes expand and clarify other events that require a currently eligible institution to submit an Application. An institution must apply for approval if it

1. increases the level of its program offerings (e.g. adding degree programs when previously it offered only nondegree programs.

2. adds an educational program if the institution is required to apply for approval under 34 CFR 600.10(c)

3. adds a branch campus at a location that is not included in the institution's eligibility and certification designation; or

4. converts a currently eligible location to a branch campus.

**Applying to Expand Eligibility Cite**
*34 CFR 60.20(c)(2) - (5)*

√ A public, private nonprofit or private for-profit institution that experiences a change in ownership or change in status that causes a change in control may **not** disburse Title IV, HEA program funds to students attending that institution after the change of ownership or status until the Department notifies the institution that it is eligible to participate in those programs.

**However, an institution may make lawful disbursements if the Department issues a provisional extension of certification under 34 CFR 600.20(g).**

**Disbursement Rules Related to Applications Cite**
*34 CFR 600.20(f)(2)(i)*

***Exceptions Cite***
*34 CFR 600.20(f)(2)(ii)*

√ If an institution is required to apply if it wants to:

1. add an additional location where it will be offering 50 percent or more of an eligible program under 34 CFR 600.20(c)(1);

2. increase the level of its program offerings;

3. add an educational program if the institution is required to apply to for approval under 34 CFR 600.10(c); or
4. add a branch campus at a location that is not included in the institution's eligibility and certification designation.

**Wait Before Disbursing**
*34 CFR 600.20(f)(3)*

**The institution may not disburse Title IV, HEA program funds to students attending the subject location, program, or branch until the Department notifies the institution that the location, program, or branch is eligible to participate in the Title IV, HEA programs.**

***Disbursing when an Eligible Location is Converted to a Branch Cite***
*34 CFR 600.20(f)(4)*

√ If an institution applies to convert an eligible location to a branch campus, the institution may continue to disburse Title IV, HEA program funds to students attending that eligible location.

***Liability for Unlawful Disbursements***
*34 CFR 600.20(f)(5)*

√ If an institution fails to apply for approval or fails to obtain approval of a new location, program, increase in the level of program offerings, or branch, and the location, program, or branch does not qualify as an eligible location, program, or branch of that institution, the institution is liable for all Title IV, HEA program funds it disburses to students enrolled at that location or branch or in that program.

**Change in Ownership Cite**
*34 CFR 600.31(a)*

√ A change in ownership that results in a change in control includes any change through which a person

1. acquires an ownership interest in the entity that owns the institution or the parent corporation of that entity, or
2. who owns or acquires an ownership interest attains or loses the ability to control the institution.

**Ownership Interest Cite**
*34 CFR 600.31(b)*

√ The definition of ownership now includes ownership interest. Ownership or ownership interest means a legal or beneficial interest in an institution or its corporate parent, or a right to share in the profits derived from the operation of an institution or its corporate parent.

Ownership or ownership interest does not include an ownership interest held by

1. a mutual fund that is regularly and publicly traded;

2. a U.S. institutional investor as defined by the Security and Exchange Commission;

3. a profit-sharing plan of the institution or its corporate parent (provided that all full-time permanent employees of the institution or corporate parent are included in the plan); or

4. an Employee Stock Ownership Plan (ESOP).

**Institutional Investor Cite**
*17 CFR 240.15*

√ For publicly traded corporations, a change in ownership and control occurs when

1. a person acquires such ownership and control of the corporation that the corporation is required to file a Form 8K with the Securities and Exchange Commission (SEC) notifying that agency of the change in control; or

2. a person who is a controlling shareholder of the corporation ceases to be a controlling shareholder.

   A controlling shareholder is a shareholder who holds or controls through agreement both 25 percent or more of the total outstanding voting stock of the corporation and more shares of voting stock than any other shareholder. A controlling shareholder for this purpose does not include a shareholder whose sole stock ownership is held as a U.S. institutional investor (as defined by the SEC), held in mutual funds, held through a profit-sharing plan, or held in an Employee Stock Ownership Plan (ESOP).

**Identifying Changes in Ownership or Control cite**
*34 CFR 600.31(c)(2)*

For a publicly traded corporation, when a change of ownership occurs, instead of a same-day balance sheet, the institution may submit its most recent quarterly financial statement as filed with the SEC. Together with its quarterly financial statement, the institution must submit copies of all other SEC filings made after the close of the fiscal year for which a compliance audit has been submitted to the Department of Education.

If a publicly traded institution that is provisionally certified due to a change in ownership experiences another change of ownership, approval of the subsequent change in ownership does not extend the expiration date for the original provisional certification. In addition, if any controlling shareholder on the second change of ownership application was listed on the change of ownership application for which the original provisional approval was granted the approval of the subsequent change in ownership does also does not extend the expiration date for the original provisional certification.

**Covered Transactions Cite**
*34 CFR 600.31(d)*

√ The changes clarified that profit and nonprofit institution change ownership and control when one of the following transactions occurs

1. the sale of the institution;
2. the transfer of the controlling interest of stock of the institution or its parent corporation;
3. the merger of two or more eligible institutions;
4. the division of one institution into two or more institutions;
5. the transfer of the liabilities of an institution to its parent corporation;
6. a transfer of assets that comprise a substantial portion of the educational business of the institution, except where the transfer consists exclusively in the granting of a security interest in those assets; or
7. **a change in status as a for profit, nonprofit, or public institution**

**Certification Cite**
*34 CFR 668.13*

√ The new regulations modify and simplify the certification training requirements for chief executive officers and financial aid administrators. First, the regulations limit the conditions under which this training is required to

1. when an institution wishes to participate in the Title IV, HEA programs for the first time; and
2. when there is a change of ownership.

The requirement that an institution participate in certification training when participating, for the first time, in a new Title IV program has been removed. Second, for all institutions, the regulations provide that the chief executive may elect to send for Title IV certification training another executive level officer of the institution in his or her stead. Both the chief financial aid administrator and the chief executive of the institution, or designee, must attend the certification training no later than twelve months after the institution executes its program participation agreement.

The institution may request a waiver of the training requirement for either the financial aid administrator or the chief administrator. The Department may grant or deny the waiver for the required individual, require another official to take the training, or require alternative training.

We are interested in hearing your comments or suggestions on ways to make the SFA Handbook more useful. Please send your comments to:

Schools Channel
Research and Publications
Department of Education
ROB-3, Room 3060
7th and D Streets, SW
Washington, DC 20202

# Institutional and Program Eligibility

CHAPTER 1

*This chapter discusses the three types of institutions that are eligible to participate in the SFA programs and the effect of program eligibility requirements on institutional eligibility.*

A school that wishes to participate in the SFA programs must demonstrate that it is eligible to participate before it can be certified for participation. A school must apply to and receive approval from the Department of its eligibility to participate. Some schools apply for a designation (they do not seek to participate) solely so that students attending the school may receive deferments on SFA program loans, or be eligible for the HOPE/Lifetime Learning Scholarship tax credit, or so that the school may apply to participate in federal HEA programs other than the SFA programs. The same application form is used to apply for both eligibility to participate and certification for participation (see chapter 10).

## THE THREE DEFINITIONS OF ELIGIBLE INSTITUTIONS

The institutional eligibility regulations define three types of eligible institutions — institutions of higher education, proprietary institutions of higher education, and postsecondary vocational institutions. Under the three definitions, a school is eligible to participate in all the SFA programs provided the school offers the appropriate type of eligible program. (see chart on next page) This section covers the key elements of the three definitions, giving special attention to those requirements that affect the definition of an eligible program.

Although the criteria for the three types of institutions differ somewhat, the definitions are not mutually exclusive. That is, a public or private nonprofit school may meet the definition of more than one type of eligible institution.

**Definitions of Eligible Institutions of Education Cite**
*34 CFR 600.4, 600.5, and 600.6*

## INSTITUTIONAL CONTROL

The *control* of an institution distinguishes whether the school is public or private, nonprofit or for-profit. Under the institutional definitions, an *institution of higher education* or a *postsecondary vocational institution* can be either public or private, but is always nonprofit. A *proprietary institution of higher education* is always a private, for-profit institution.

**Nonprofit Institution**
*A school that is*
- *owned and operated by one or more nonprofit corporations or associations whose net earnings do not benefit any private shareholder or individual,*
- *legally authorized to operate as a nonprofit organization by each state in which it is physically located, and*
- *determined by the Internal Revenue Service to be eligible for tax-deductible contributions*

# ELIGIBLE INSTITUTION

To be eligible, all institutions must adhere to the following requirements:

*Legal Authorization* by the state where the institution offers postsecondary education to provide a postsecondary education program.

*Accreditation* by a nationally recognized accrediting agency or has met the alternative requirements, if applicable.

*Admissions* Admits as regular students only persons with a high school diploma or its recognized equivalent, or persons beyond the age of compulsory attendance in the state where the institution is located.

## *Types of Institutional Control*

| ***Institution of Higher Education*** | ***Proprietary Institution of Higher Education*** | ***Postsecondary Vocational Institution*** |
|---|---|---|
| A public or private nonprofit educational institution located in a state* | A private, for-profit educational institution located in a state* | A public or private nonprofit educational institution located in a state* |

## *Eligible Programs*

| | |
|---|---|
| (1) Associate, bachelor's, graduate, or professional degree, or<br>(2) At least a two-year program that is acceptable for full credit toward a bachelor's degree, or<br>(3) At least a one-year training program that leads to a degree or certificate (or other recognized educational credential) and prepares students for gainful employment in a recognized occupation. | Program offered: must provide training for gainful employment in a recognized occupation, and must meet the criteria of at least one category below.<br>(1) Provides at least a 15-week (instructional time) undergraduate program of 600 clock hours, 16 semester or trimester hours, or 24 quarter hours. May admit students without an associate degree or equivalent.<br>(2) Provides at least a 10-week (instructional time) program of 300 clock hours, 8 semester or trimester hours, or 12 quarter hours. Must be a graduate/professional program, or must admit only students with an associate degree or equivalent.<br>(3) Provides at least a 10-week (instructional time) undergraduate program of 300-599 clock hours. Must admit at least some students who do not have an associate degree or equivalent, and must meet specific qualitative standards. Note: These programs are eligible only for FFEL and Direct Loan participation. |

## *Additional Rules*

| | |
|---|---|
| | Legally authorized to give (and has been giving) postsecondary instruction for at least two consecutive years (Two-Year Rule). (You can find the definition of *state* on the next page.)<br>Special rule: Derives no more than 90% of its revenues from SFA funds. |

*The following pages expand on the aforementioned requirements.*

## LEGAL AUTHORIZATION BY A STATE

With the exception of foreign schools (see the discussion under *Foreign Schools* later in tis chapter), an eligible institution under any of the three definitions must be located in a state. Generally, the determining factor is the physical location of the main campus or place of instruction. For instance, if a school's main campus is in a state, as defined above, the school can still have an additional location in a foreign country.

**State defined**
*"State" includes not only the 50 states, but also American Samoa, Puerto Rico, the District of Columbia, Guam, the Virgin Islands, and the Northern Mariana Islands. A "state" also includes the Freely Associated States, which include the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.*

To qualify as an eligible institution under any of the three institutional definitions, a school must be legally authorized by the state in which it offers an educational program to provide the program. The state's legal authorization may be provided by the licensing board or educational agency. In some cases, the school's charter is its legal authorization. In other cases, a school is considered to be legally authorized if state law does not require it to have a license or other formal approval.

Schools must provide evidence that they have the authority to operate in a state at the time of the school's certification to participate in the SFA programs. For more information on applying for participation in the SFA programs, see chapter 10.

## ACCREDITATION

Generally, an institution must be accredited or preaccredited by a nationally recognized accrediting agency or association (both referred to here as agencies) to be eligible. The procedures and criteria for recognizing accrediting agencies are found in chapter 11.

**Nationally Recognized Accrediting Agency or Association:**
*An accrediting agency or association which the Department has recognized to accredit or pre-accredit a particular category of institution, school, or educational program in accordance with the provisions in 34 CFR Parts 602 and 603.*

***Preaccredited:***
*A status granted by a nationally recognized accrediting agency or association to a public or private nonprofit institution that is progressing towards accreditation within a reasonable period of time.*

The Department periodically publishes a list of recognized accrediting bodies in the Federal Register, based on criteria given in 34 CFR Part 602. The list can be found on the Department's Web Site at:

http://ifap.ed.gov/IFAPWebapp/index.jsp

Copies of this list are also available from the Department at the following address:

U.S. Department of Education
Accreditation and State Liaison
1990 K Street, N.W. (Room 7159)
Washington, DC 20006-8509

**Alternatives To Accreditation Cite**
*34 CFR 600.4(a)(5)(ii)*
*34 CFR 600.6(a)(5)(ii)*

## *Alternatives to accreditation*

The law provides two statutory alternatives to accreditation. First, a nonprofit institution may be preaccredited by an agency or association that has been approved by the Department to grant such preaccreditation. Secondly, unaccredited public postsecondary vocational educational institutions may be eligible for SFA program funds if accredited by a state agency that the Department determines to be a reliable authority.

## *Changes in accreditation*

If a school loses its primary accreditation, it is ineligible to participate in the SFA programs and must notify the Department within 10 days.[1] This can be done on-line through the electronic application. However, if a school's accrediting agency loses its recognition from the Department, the school has up to 18 months in which to obtain accreditation from another recognized agency. Other changes in accreditation may also jeopardize institutional participation. If a school changes accrediting agencies, it may be subject to termination unless the school submits to the Department all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing accrediting agencies. To continue its eligibility status, a school must obtain written approval from the Department for a change of accrediting agency (see chapter 10).

**Changing Accrediting Agencies Cite**
*34 CFR 600.11*

## *Change in primary institution-wide accreditation*

If the school decides to change its institution-wide accreditation, it must notify the Department of Education when it begins the accreditation application process with a different agency. As part of the notice, the school must submit materials about its current accreditation and materials demonstrating reasonable cause for changing accreditation. If it fails to notify the Department of the proposed change to its primary institution-wide accreditation, or if the school does not provide the materials just described, the Department will not recognize the school's existing accreditation. This means the school would no longer have accredited status, and would no longer be eligible to award federal student financial aid or take part in other programs under the Higher Education Act of 1965, as amended (HEA).

## *Accreditation by more than one institution-wide accrediting agency*

If the school decides to become accredited by more than one institution-wide accrediting agency, it must notify the Department when it begins the process of obtaining additional accreditation. As part of the notice, the school must submit to the Department, its current institution-wide accrediting agency, and the prospective institution-wide accrediting agency the reason it wishes to be accredited by more than one agency. If the school obtains the additional institution-wide accreditation and fails to notify the Department of the reasons for the additional accreditation, the Department will not recognize the school's accredited status with either agency. This means the school would lose its accredited status and its eligibility to award federal student financial aid or take part in other programs under the HEA.

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[1] For any dispute involving the termination of accreditation, an accredited or preaccredited school must agree to submit, to binding arbitration before initiating any other legal action.

### *Primary accreditor*

The primary accreditor is an accrediting agency whose scope is institution-wide rather than only programmatic is considered the primary accreditor. For SFA purposes, the *primary accrediting agency* is referred to as the *accrediting agency*.

### *Dual accreditation*

If a school is accredited by two agencies at the same time, the school must designate which agency's accreditation will be used in determining institutional eligibility for SFA funds and must so inform the Department. Further, the school must provide to the Department (and to both agencies) all materials documenting the reasons and causes for dual accreditation before the school adds the additional accreditation. See chapter 11 for more on changes in accreditation and loss of eligibility.

## ADMISSIONS STANDARDS

An eligible institution may admit as regular students only persons who have a high school diploma or its recognized equivalent, or persons who are beyond the age of compulsory school attendance in the state in which the school is located.

Students who are beyond the age of compulsory attendance but who do not have a high school diploma or its recognized equivalent must meet ability-to-benefit criteria or meet the student eligibility requirements for a student who is home-schooled to be eligible for aid from the SFA programs. (For more information on this student eligibility requirement, see *Volume 1 — Student Eligibility* .)

Extension of student eligibility to home-schooled students was added by the Amendments of 1998 and implemented by final regulations published October 22, 1999.

**Regular Student Definition**
*A person who is enrolled (or is accepted for enrollment) in an eligible program for the purpose of obtaining a degree, certificate, or other recognized educational credential.*

***Regular Student Cite***
*34 CFR 600.2*

### *High school diploma*

Unless required by its accrediting or state licensing agency, the school is not required to keep a copy of a student's high school diploma or GED, which is a recognized equivalent of a high school diploma (see below). Rather, the school may rely on the student's certification that he or she has received the credential and a copy of the certification must be kept on file. This certification need not be a separate document. It may be collected on the school's admissions application. The school may also require the student to provide supporting documentation.

## *Recognized equivalent of a high school diploma*

Generally, a recognized equivalent of a high school diploma is either a GED or a state certificate (received after the student has passed a state-authorized test) that the state recognizes as being equivalent to a high school diploma. However, the Department recognizes that there are special cases. If a student has successfully completed at least a two-year program that is acceptable for full credit toward a bachelor's degree, the student's academic transcript is considered equivalent to a high school diploma. A student without a high school diploma who is seeking enrollment in a program of at least the associate-degree level, and who has excelled academically in high school and met formalized written admissions policies of the school, is also considered to have the equivalent of a high school diploma. These students may be eligible to receive SFA program funds without having to meet the ability-to-benefit requirements, provided the students are no longer enrolled in high school. A student who has neither a high school diploma or its recognized equivalent may become eligible to receive SFA program funds by achieving a passing score (specified by the Department) on an independently administered test approved by the department. (For a complete discussion of the Ability-to-Benefit provisions, see Volume 1 — Student Eligibility.

**Ability to Benefit Cite**
*34 CFR 668, Subpart J*

A school that admits students who do not have a high school diploma or its recognized equivalent has some additional considerations. Unless the school provides a four-year bachelor's degree program or two-year associate degree program, it does not qualify as an eligible institution if, for its latest complete award year, more than 50% of its regular enrolled students had neither a high school diploma or its equivalent, . A waiver of this limitation is possible for some schools. See the discussion under *Ability to Benefit Limitation* later in this chapter for more information.

## *Home schooled*

**Home Schooling Cite**
*34 CFR 668.32(e)*

An eligible institution may admit only persons who

(1) have a high school diploma;

(2) have the recognized equivalent, as defined by the regulations, of a high school diploma; or

(3) are beyond the age of compulsory attendance in the state in which the institution is located. If a student is not beyond the age of compulsory attendance, a school may not admit a student unless he or she has a high school diploma or a recognized equivalent.

Many states require a certificate of completion and accept a home-schooling certificate as a certificate of completion while not considering a home-schooling certificate to be the equivalent of a high school diploma. **For institutional eligibility purposes, a certificate of home schooling is considered the equivalent of a high school diploma only if the student's home state specifically considers the home-schooling certificate as the equivalent of a high school diploma.**

If a student is below the age of compulsory attendance in the state in which the institution is located and the student's home state does not specifically consider the home-study certificate to be a high school diploma, a school may not admit the student without jeopardizing its institutional eligibility.

### *GED preparatory program required*

A school that participates in the SFA programs and admits students without a high school diploma or its equivalent must make a GED preparatory program available to its students. For more information see the discussion of the Program Participation Agreement in chapter 2.

## "TWO-YEAR" RULE

To be eligible as a proprietary institution or a postsecondary vocational institution, a school must have provided continuous postsecondary instruction (and been legally authorized to do so) for at least two consecutive years. The educational program(s) offered must remain substantially the same in length and subject matter, except for changes made because of new technology or requirements of other federal agencies.

A branch campus seeking status as a main campus or freestanding institution is subject to the two-year rule. Final regulations published October 29, 1999 clarify that a branch campus must be in existence for two years after certification as a branch campus before the branch can seek certification as a main or freestanding school. A branch campus's time as a branch campus counts toward the two years.

An additional location must obtain approval from the Department to become a branch campus. A branch campus then must operate independently for two years (satisfy the two-year rule) before it may be considered for status as a freestanding institution. Time as an additional location of an eligible proprietary institution or postsecondary vocational institution does not count toward the two-year rule. Time as an eligible institution of higher education or an additional location of an eligible institution of higher education does count toward the two-year rule.

**Branch Campus**

*A branch campus is a location of a school that is geographically apart and independent of the main campus of the school. A location is independent of the main campus if the location:*

- *is permanent in nature;*
- *offers courses in educational programs leading to a degree, certificate, or other recognized educational credential;*
- *has its own faculty and administrative or supervisory organization; and*
- *has its own budgetary and hiring authority*

***Branch Campus Cite***

*34 CFR 600.2 and 600.8*

***Additional Location Cite***

*34 CFR 600.32*

## ADDITIONAL INSTITUTIONAL ELIGIBILITY FACTORS

**90/10 Cite**
*Sec. 102*
*34 CFR 600.5*

A school becomes an ineligible institution if the school violates, among other requirements, the 90/10 Rule (applicable to proprietary schools only), the Correspondence Course Limitation, the Correspondence Student Limitation, the Incarcerated Student Limitation, or the Ability-To-Benefit Student Limitation. In addition, a school is not eligible if it files for bankruptcy, or if the school, its owner, or its CEO is responsible for a crime involving SFA program funds. A school that becomes ineligible because of one of these factors must immediately stop awarding SFA program funds and must comply with the requirements in 34 CFR 668.26 for a school that has lost its SFA participation. For more information on requirements when a school's SFA participation ends, see chapter 11.

### *Demonstrations of compliance*

All of the *limitation* requirements and the 90/10 Rule involve certain percentage calculations, that are performed by the school either to demonstrate compliance with a requirement or to demonstrate eligibility for a limitation waiver. For each of the tests enumerated above a calculation performed by the school must be attested to by the certified public accountant (CPA) who prepares the school's audited financial statement or its SFA compliance audit (for more information on audits, see chapter 11). If a school's initial or previous calculation was in error, the CPA's report must be part of the audit workpapers and must include a recalculation . The CPA's attestation report must indicate whether the school's determinations (including any relevant waiver or exception) are accurate. Requirements for demonstrating compliance with the 90/10 Rule are discussed below.

For each of the limitation requirements, the school must notify the Department of the school's failure to meet a requirement, its falling within a prohibited limitation, or its ineligibility for a continued waiver, as applicable. The school's notification must occur by July 31 following the end of an award year. A school that fails to meet any of these requirements loses its eligibility to participate in any SFA program as of the last day of the most recent award year.

To regain institutional eligibility lost due to the limitation requirements, the school must demonstrate its compliance with all eligibility requirements and its ability to stay outside prohibited limits for at least one award year. Further, it must also show how its administrative practices and policies have been changed to ensure that it will not fall within prohibited limits in the future.

Proprietary institutions have 90 days after their most recent fiscal year has ended to report to the Secretary if they did not satisfy the 90/10 Rule for that period. Schools that fail to satisfy the 90/10 Rule lose their eligibility as of the last day of that fiscal year. A school changing from for profit to non profit must continue to file this report for the first year of its non profit status.

If a school becomes ineligible because it files for bankruptcy, or if the school, its owner, or its CEO is responsible for a crime involving SFA program funds, the school must notify the Department within 10 days. The loss of eligibility is effective as of the date of the bankruptcy, or the date the school or individual pleads to or is found responsible for the crime, as applicable. A loss of eligibility for these two reasons is permanent. The institution's eligibility cannot be reinstated.

## *The 90/10 Rule (formerly the 85/15 Rule)*

To be eligible for SFA participation, a proprietary institution may derive no more than 90% of its revenues from the SFA programs.

As specified in 34 CFR 600.5(d), a school must determine its revenue percentages using the following formula for its latest complete fiscal year:

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***SFA Program Funds (except SSIG or FWS) used for tuition, fees, and other institutional charges to students***

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***The sum of revenues generated by the school from: (1) tuition, fees, and other institutional charges for students enrolled in eligible training programs; plus (2) school activities* necessary for the education or training of students enrolled in those eligible programs***

*to the extent not included in tuition, fees, and other institutional charges

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## The cash basis of accounting

A Proprietary institution of higher education must use the cash basis of accounting in determining whether it satisfies the 90/10 rule. Under the cash basis of accounting, revenue is recognized when received.

For the purpose of calculating the qualifying percentages under the 90/10 Rule, revenue is an inflow or other enhancement of assets to an entity, or a reduction of its liabilities resulting from the delivery or production of goods or services. An institution may recognize revenue only when the institution receives cash, i.e., when there is an inflow of cash. As a result, **in order for an institution to recognize revenue under the cash basis of accounting, that revenue must represent cash received from a source outside the institution.**

## Exclusions from fraction

In determining whether a school satisfies the 90/10 Rule, the totals used in the fraction do not include refunds paid to or on behalf of students who have withdrawn, dropped out, been expelled, or otherwise failed to complete the period of enrollment. Charges for books, supplies, and equipment are not included in the fraction unless the amount is part of the tuition, fees, or other institutional charges.

## SFA Program funds for institutional charges

In figuring what SFA program funds were used to pay tuition, fees, and other institutional charges, a school **must** assume that any SFA program funds disbursed (or delivered) to or on behalf of a student were used for such costs, regardless of whether the institution credits those funds to the student's account or pays them directly to the student, **unless** those costs were otherwise paid by

- grant funds provided by nonfederal public agencies,
- grant funds provided by independent private sources,
- funds from qualified government agency job training contracts, or
- funds received from a prepaid State tuition plan.

## Revenues

In figuring revenues generated by school activities, a school may include only revenue from activities that are conducted on campus or at a facility under the control of the school, that are performed under the supervision of a faculty member, and that are necessary for the training of its students who are enrolled in an eligible program.

When an institution makes a loan to a student, it does not receive cash from an outside source. Accordingly, cash revenue from institutional loans is recognized only when those loans are repaid, because that is when there is an inflow of cash from an outside source. Loan proceeds from institutional loans that were disbursed to students may not be counted in the denominator of the fraction, because these *proceeds* neither generate nor represent actual inflows of cash. The school may include only loan repayments it received during the appropriate fiscal year for previously disbursed institutional loans.

**Institutional grants in the form of tuition waivers do not count as revenue because no new revenue is generated.** Similarly, internal transfers of cash among accounts are not considered revenue because they do not represent an inflow of cash to the institution. Institutional scholarships are not revenues generated by the school (unless they are donated by an unrelated or outside third party). An exception is permitted for schools to use donations from a related party to create restricted accounts for institutional scholarships, but only the amount earned on the restricted account and used for scholarships would count as revenue in the denominator of the calculation.

Additional guidance on 90/10 and institutional loans and scholarships can be found in Dear Partner Letter GEN-99-33 and Dear CPA Letters CPA-99-01 and CPA-99-02.

Funds held as credit balances in institutional accounts cannot be counted in the 90/10 formula. However, once funds held as credit balances are used to satisfy institutional charges, they would be counted in both the numerator and the denominator of the formula.

Revenue generated from the sale of nonrecourse institutional loans to an unrelated third party would be counted as revenue in the denominator of the 90/10 calculation to the extent that the revenues represent actual proceeds from the sale. The sale of institutional loan receivables is distinguishable from the sale of an institution's other assets because receivables from institutional loans are produced by transactions that generate tuition revenue. Tuition revenue represents income from the major service provided by an institution. That would not be true in the case of the sale of other institutional assets.

## Time period covered

As mentioned above, a proprietary institution must determine whether it satisfied the 90/10 Rule during its most recently completed fiscal year. For example, for schools using a calendar year as their fiscal year, their most recently completed fiscal year is the one that ended on December 31, 2000. For those schools using the award year as their fiscal year, their most recently completed fiscal year will be the one that ends on June 30, 2001.

## Failure to satisfy the 90/10 rule

Schools that fail to satisfy the 90/10 Rule lose their eligibility on the last day of that fiscal year. As mentioned earlier, the school must immediately stop awarding SFA program funds and comply with the provisions of 34 CFR 668.26. Schools have 90 days after their most recently completed fiscal year has ended to report to the Department if they did not satisfy the 90/10 Rule for the fiscal period.

## Financial Statement Disclosure

A proprietary school is required to disclose the percentage of its revenues derived from the SFA programs (that the school received during the fiscal year covered by the audit) as a footnote to its audited financial statement. For information on audited financial statements, see chapter 11.

## Financial Statement Notification

A school must notify the Department of its failure to satisfy the 90/10 Rule at one of the following addresses:

**By U.S. Mail to:**

U.S. Department Of Education
Case Management and Oversight
Data Management and Analysis Division
Document Receipt and Control Canter
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

**or by commercial courier/overnight mail to**

U.S. Department Of Education
Case Management and Oversight
Data Management and Analysis Division
Document Receipt and Control Canter
7th and D Streets, SW
GSA Building, Room 5643
Washington, DC 20407

Phone: (202) 205-1936 (for this purpose)

**Correspondence Limitations Cite**
*34 CFR 600.7(a)(1))(i) and (ii)*

***Correspondence Course***
*A home study course provided to students who are not physically attending classes at the school; a course that is part residential and part correspondence. (includes video courses unless students physically in attendance at the school receive the same video instruction in the same award year)*

***Telecommunications Course***
*A course offered principally through television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, satellite, or audio or computer conferences. (includes video courses if students physically attending the school also receive the video course in the same award year)*

***Distance Education***
*For information on the Distance Education, see chapter 12.*

## *Correspondence course limitation*

A school is not eligible for SFA program participation if, during the school's latest complete award year, more than 50% of its courses were taught through correspondence.[2]

In calculating the percentage of *correspondence courses*, a correspondence course can be either a complete educational program or a single course that is part of a larger, on-campus (residential) program. Regardless of how many times a course or program is offered during the award year, it is counted only once. (A course offered both through correspondence and on campus is counted as two courses in determining the total number of courses offered by the school.) The school's correspondence course calculation must be attested to by a CPA.

This requirement does not apply to a school that mainly provides vocational adult education or job training (as defined under the Carl D. Perkins Vocational and Applied Technology Education Act).

For information about a student's eligibility for SFA program funds while enrolled in a correspondence course and cost of attendance information for correspondence courses, see *Volume 1 — Student Eligibility*.

## *Correspondence student limitation*

A school is also not eligible for SFA program participation if, for its latest complete award year, 50% or more of its regular students are enrolled in correspondence courses. *Telecommunications* courses may be considered correspondence courses (see the definitions on this page). The rules for calculating this percentage are the same as for the calculation of the correspondence course percentage. The calculation should reflect a straight *head count* of students: that is, each regular student must be counted regardless of full-time or part-time attendance and will be counted only once during an award year, regardless of withdrawal and reenrollment. (Students who enrolled, withdrew, and subsequently received a full refund should not be included in the count.) As discussed previously, the school's correspondence student calculation must be attested to by a CPA.

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[2] A telecommunications course is considered to be a correspondence course (program) if the sum of telecommunications and other correspondence courses provided by the school during its latest complete award year was equal to or more than 50% of the total courses provided that year.

This requirement is waived for a school that offers a two-year associate degree or four-year baccalaureate degree program if the school demonstrates that the students enrolled in its correspondence courses receive no more than 5% of the total SFA program funds received by all of the school's students. This requirement also does not apply to an institution that mainly provides vocational adult education or job training (as defined under the Carl D. Perkins Vocational and Applied Technology Education Act).

## Incarcerated student limitation

A school is not eligible for SFA program participation if, in its latest complete award year, more than 25% of its regular students are incarcerated. A school can ask the Department to waive this limitation. For a school offering only two-year or four-year programs that lead to associate or bachelor's degrees, the waiver applies to all programs offered at the school. However, if the school offers other types of programs, the waiver would apply to any of the school's two-year bachelor's or four-year associate degree programs, and also to any other programs in which the incarcerated regular students enrolled have a 50% or greater completion rate. (The calculation of this completion rate is specified in Section 600.7(e)(2) of the Institutional Eligibility regulations and must be attested to by a CPA. If granted, the waiver is effective as long as the school continues to meet the waiver requirements each award year. For information on the eligibility of incarcerated students for SFA assistance, see *Volume 1 — Student Eligibility*.

**Incarcerated Student Defined**

*An "incarcerated student" is a student who is serving a criminal sentence in a federal, state, or local penitentiary, prison, jail, reformatory, work farm, or other similar correctional institution. (does not include detention in a halfway house, home detention, or weekend-only sentences.)*

***Incarcerated Student Limitation Cite***

*34 CFR 600.7(a)(1)(iii) and 600.7(c)*

**Note:** A school may request the waiver using the Application, by answering the questions in *section G* and explaining in question 69.

## Ability-to-benefit limitation

A school does not qualify as an eligible institution if, for its latest complete award year, more than 50% of its regular enrolled students had neither a high school diploma nor its equivalent (referred to here as ability-to-benefit students), unless the school provides a four-year bachelor's degree program, or a two-year associate degree program.

**Ability to Benefit Limitation Cite**

*34 CFR 600.7(a)(1)(iv)*

The Department may waive this limitation for a nonprofit school if the school demonstrates, to the Department's satisfaction, that it exceeds the limitation because it serves significant numbers of ability-to-benefit students through government agency contracts, such as a contract under the Job Training Partnership Act. A school will not be granted this waiver if more than 40% of the school's enrolled regular students do not have a high school diploma or equivalent and are not served through contracts with federal, state, or local government agencies. The purpose of the contracts must be to provide job training to low-income individuals who are in need of the training. If granted, the waiver extends as long as the school continues to meet the waiver requirements each award year. The school's *Ability-To-Benefit* calculation must be attested to by a CPA.

## Bankruptcy

A school is not an eligible institution if the school, or an affiliate of the school that has the power, by contract or ownership interest, to direct or cause the direction of the management of policies of the school, files for relief in bankruptcy or has entered against it an order for relief in bankruptcy.

## Crimes involving SFA program funds

A school is not an eligible institution if the school, its owner, or its chief executive officer:

- has pled guilty to, has pled nolo contendere to, or is found guilty of a crime involving the acquisition, use, or expenditure of SFA program funds; or

- has been judicially determined to have committed fraud involving SFA program funds.

# PROGRAM ELIGIBILITY REQUIREMENTS

**Program Eligibility Cite**
*34 CFR 668.8*

To qualify as an eligible institution, a school must offer at least one eligible program. Not all programs at an eligible institution must be eligible, but at least one of the programs at the school must meet the eligible program requirements.

## Determination of program eligibility

Generally, a student must be enrolled in an eligible program to receive SFA funds (for more information, see *Volume 1 — Student Eligibility*). Because a school's eligibility does not necessarily extend to all its programs, the school must ensure that a program is eligible before awarding SFA program funds to students in that *program.* The school is ultimately responsible for determining that a program is eligible. In addition to determining that the program meets the eligible program definition, the school should make certain that the *program* is included under the notice of accreditation from a nationally recognized accrediting agency (unless the agency does not require that particular programs be accredited). The school should also make certain that it is authorized by the appropriate state agency to offer the program (if the state licenses individual programs at postsecondary institutions). (see the chart on *Eligible Institutions* and the discussion under *Legal Authorization by a State earlier in this chapter*)

A school's eligibility extends to all eligible programs and locations that were identified on the school's application for participation, unless the Department determines that certain programs or locations did not meet the eligibility requirements. In general, the school's eligible nondegree programs and locations are specifically named on the approval notice (Eligibility and Certification Approval Report

[ECAR]). Additional locations and programs may be added later (see chapter 10).

If a program offered through telecommunications or continuing education meets the definition of an eligible program, students enrolled in that program must be considered for SFA program assistance on the same basis as students enrolled in other eligible programs that are offered through traditional modes. If a program offered through correspondence meets the definition of an eligible program, students enrolled in that program will be considered eligible, with the limitation outlined in chapter 12.

It is not uncommon for a school to offer programs that meet different eligible program definitions. For example, a school that offers a bachelor's degree program (qualifying the school as an institution of higher education) may also offer a certificate or diploma training program that is eligible under a definition that qualifies the school as a postsecondary vocational institution.

## *Types of eligible programs at an institution of higher education*

A school qualifies as an institution of higher education if (in addition to meeting all other eligibility requirements, including being a nonprofit school) it offers a program that leads to an associate, bachelor's, professional, or graduate degree. For such programs, there are no minimum program length requirements.

A school may also qualify as an institution of higher education if it offers a program of at least two academic years in duration that is acceptable for full credit toward a bachelor's degree, or if it offers a program of at least one academic year in duration that leads to a certificate, degree, or other recognized credential and prepares students for gainful employment in a recognized occupation.

**Recognized Occupation**

*A recognized occupation is one that is listed in the "occupational division" of the most recent edition of the Dictionary of Occupational Titles (published by the U.S. Department of Labor) or one that is considered by the Department, in consultation with the Department of Labor, to be a recognized occupation.*

## *Types of eligible programs at a proprietary or postsecondary vocational institution*

Three types of eligible programs will qualify an otherwise eligible school as a proprietary institution or a postsecondary vocational institution. All of these programs must have a specified number of weeks of instruction, and must provide training that prepares a student for gainful employment in a recognized occupation.

1) The first type of eligible program must provide at least 600 clock hours, 16 semester or trimester hours, or 24 quarter hours of undergraduate instruction offered during a minimum of 15 weeks of instruction. The program may admit as regular students persons who have not completed the equivalent of an associate degree.

2) The second type of eligible program must provide at least 300 clock hours, 8 semester hours, or 12 quarter hours of instruction offered during a minimum of 10 weeks of instruction. The program must be a graduate or professional program or must admit as regular

students only persons who have completed the equivalent of an associate degree.

3) The third type of program is known as the *short-term program.* A short-term program qualifies for the FFEL and Direct Loan programs only. This type of program must provide at least 300 but less than 600 clock hours of instruction offered during a minimum of 10 weeks of instruction. The program must admit as regular students some persons who have not completed the equivalent of an associate degree. Short-term programs must also satisfy qualitative factors for completion rates, placement rates, program length, and period of existence of the program. Specifically, these programs must:

- have verified completion and placement rates of at least 70%,
- not be more than 50% longer than the minimum training period required by the state or federal agency, if any, for the occupation for which the program of instruction is intended, and
- have been in existence for at least one year.

For the purpose of demonstrating compliance with these qualitative factors, a school must calculate the completion and placement rates for the award year, as explained later. The CPA who prepares the school's compliance audit report must attest to the accuracy of the school's calculation of completion and placement rates.

## Completion Rate Calculation

$$\frac{\text{Number of regular students who received credential for successfully completing the program within 150\% of the length of the program}}{\begin{array}{c}\text{Number of regular students enrolled for the year} \\ \text{- number of regular students who withdrew with a 100\% refund} \\ \text{- number of regular students enrolled at the end of the year}\end{array}}$$

* less any permitted administrative fee

The school must document the employment of any student it includes as *employed* in the placement rate calculation. Examples of such documentation include, but are not limited to, a written statement from the employer, signed copies of state or federal income tax forms, or written evidence of payment of Social Security taxes.

The school must reasonably determine whether a related occupation is comparable. For instance, for a student who was trained as an auto mechanic, it is reasonable to determine that a job as a boat mechanic is comparable. However, for a person trained in retail sales management, a counter-service job at a fast-food restaurant is not comparable.

## Placement Rate Calculation

***Number of students who obtained employment* within 180 days of receiving credential, and who are employed (or have been employed) for at least 13 weeks following receipt of credential***

***Number of students who received credential for successfully completing the program***

* in the recognized occupation for which they were trained or in a related comparable occupation

### *Exceptions to eligible program definition*

Note that there are two cases (certain types of preparatory coursework and teacher-certification programs) where students may receive FFEL or Direct Loan funds for enrollment in a program that does not meet the eligible program definition. (For more information, see *Volume 1 — Student Eligibility*.)

## WEEKS OF INSTRUCTION AND THE 12-HOUR RULE

Week of instructional time/week of instruction is used in determining:

1. program eligibility (measuring program length);
2. academic year length;
3. award limits in the Pell program (formulas three and four); and
4. the frequency of awards in the Direct Loan and FFEL programs.

Instructional time does not include any vacation periods, homework, or periods of orientation or counseling.

**Clarification**

## Week of instruction/instructional time

For standard term programs (credit hour programs using a semester, trimester, or quarter system) and for clock hour programs a week of instructional time must contain within a consecutive seven-day period:

- at least one day of regularly scheduled instruction or examinations; or
- after the last scheduled day of classes for a term, at least one day of study for final examinations.

For nonterm and nonstandard term credit hour programs using credit hours but not offered in a semester, trimester, or quarter system), a week of instructional time must contain at least 12 hours:

- of regularly scheduled instruction or examinations; or
- after the last scheduled day of classes for a payment period, at least 12 hours of study for final examinations.

This requirement is commonly known as the 12-hour rule.

## Program Eligibility Minimum Weeks and Hours

As discussed previously, certain programs are required to have a minimum number of weeks of instruction. Consider a nonterm or nonstandard term program of 16 semester hours meeting over the required minimum 15 calendar weeks. Since each of those weeks must contain at least 12 hours of instruction, the program must contain at least 180 hours of instructional time (15 weeks times 12 hours per week). A school that wants to set its program to be only 15 calendar weeks long would therefore have to meet an average of 12 hours per week for the 15 calendar week period in order for the program to be eligible.

The Department allows flexibility in the application of this rule. If a program does not include at least 12 hours of instruction in each week, it may still be an eligible program if the total number of hours in the program is equal to or greater than the required number of weeks times 12 hours. For example, a program that included only six hours of instruction per calendar week would have to meet for 30 calendar weeks in order contain 15 weeks of instructional time (30 calendar weeks times 6 hours per week = 180 hours of instructional time).

Note that a program that contained 20 hours a week of instruction would not qualify as an eligible program if it were offered over only 9 calendar weeks. Even though the program would contain the minimum number of hours of instruction (180) it would not satisfy the 15 calendar-week requirement.

### Treatment of holidays

Because the 12-hour rule does not require a school to offer instruction, examinations, or preparation for examinations on specific days, an institution may not include a holiday in these calculations unless regularly scheduled instruction, examinations, or preparation for examinations occurs on that day.

## ADDITIONAL ELIGIBILITY REQUIREMENTS

There are additional SFA program eligibility requirements placed on specific educational programs. For example, only undergraduate educational programs are eligible under the Pell Grant and FSEOG programs. Correspondence programs are not eligible unless they meet the general requirements for an eligible program and are required for the student's regular program of study leading to a degree. Certain telecommunications courses may be considered correspondence courses and therefore may be subject to the same requirements.

### ESL Programs

A program that consists solely of English as a Second Language (ESL) instruction is eligible only for Pell Grant participation. An ESL program must meet the general requirements for an eligible program (for example, it must lead to a degree or other credential). Moreover, **an ESL program and may admit only students who need instruction in English to be able to use the knowledge, training, or skills they already have.** The school must document its determination that the ESL instruction is necessary for each student enrolled. A school may request from the Department an eligibility determination for an ESL Program.

A student also may receive SFA program funds for ESL coursework that is part of a larger eligible program. In this case, the ESL coursework is treated as remedial coursework. For more information, see *Volume 1 — Student Eligibility.*

### Study abroad programs

A participating institution may establish programs of study abroad through which its students are eligible to receive assistance through the SFA programs. A study abroad program is an eligible program if

**Clarification**

- students studying abroad concurrently remain enrolled at their eligible home institution; and
- the eligible home institution awards academic credit for the program of study abroad.

The study abroad program does not have to be a required part of the student's eligible degree program in order to be an eligible study abroad program. However, a study abroad program must meet the requirements of consortium and contractual agreements (see chapter 9). Moreover, in the information it provides to students about a study abroad program, an institution must inform students about the availability of SFA program assistance.

### *Flight schools*

Under the FFEL programs, a flight school program must maintain current valid certification by the Federal Aviation Administration to be eligible.

## CLOCK HOUR/CREDIT HOUR CONVERSIONS

If a school offers an undergraduate program in credit hours, ***unless***

- the program is at least two academic years in length and provides an associate degree, a bachelor's degree, a professional degree, or an equivalent degree as determined by the Secretary;

**or**

- the degree offered by the institution requires at least two academic years of study, and each course within the program is acceptable for full credit toward that school's associate degree, bachelor's degree, professional degree, or equivalent degree as determined by the Secretary;

the school must use a clock hour/credit hour conversion formula to determine whether the undergraduate program qualifies as an eligible credit hour program for SFA purposes. Public and private nonprofit hospital-based diploma schools of nursing are also exempt from using the clock-to-credit hour conversion formula to calculate awards for the SFA programs.

**Important:** The aforementioned exemptions for programs that lead to a degree that is equivalent to an associate, bachelor's, or professional degree program of at least two years do not permit a school to ask for a determination that a *nondegree* program is equivalent to a degree program.

In order to evaluate the eligibility of an undergraduate program in credits hours that does not qualify for an exemption, the school must take the following steps. First, the school must determine the number of clock hours of instruction in each semester of the program. Second, the school applies the appropriate conversion formula to determine the revised number of credit hours in each semester. Third, the school evaluates the eligibility of the program. Finally, the school determines the eligibility of a student in the program for SFA program funds based on the number of credits arrived at through the application of the formula.

To determine the number of credit hours in a program for SFA purposes, schools must use one of the following formulas.

### Clock Hour/Credit Hour Conversion Example

*Sternberg University (SU) states that a two-year nondegree program measured in semester credit hours is 16 credit hours per semester. Courses within the program are not creditable toward a degree at SU.*

*SU determines that there are 330 clock hours in the first and second semesters, and 390 in the third and fourth semesters. By applying the conversion formula, the school determines that the number of credit hours for SFA purposes is 11 for the first two semesters, and 13 for the last two semesters.*

$$\frac{330 \text{ clock hours}}{30} = 11 \text{ credit hours}$$

$$\frac{390 \text{ clock hours}}{30} = 13 \text{ credit hours}$$

*Total clock hours in the program are 1440. Because the program is longer than 15 weeks and contains more than 600 clock hours of instruction, it remains an eligible program, provided it is otherwise eligible (see page 1-15). However, for the first two semesters of the program, students are eligible for payment for only 11 credit hours of instruction. Because this is less than the full-time student minimum of 12 credit hours, students who attend the first two semesters are eligible to be paid for only three-quarter time attendance.*

**For a semester or trimester hour program**

$$\frac{\text{Number of clock hours in the credit-hour program}}{30}$$

**For a quarter hour program**

$$\frac{\text{Number of clock hours in the credit-hour program}}{20}$$

The school uses the resulting number of credit hours to determine if a program is eligible under the eligible program requirements explained under *Types of eligible programs at a proprietary or postsecondary vocational institution.*

In order to meet minimum eligibility standards, the conversion formula must yield one of the following results:

- a program offered in semesters or trimesters must provide at least 16 semester or trimester credit hours over 15 weeks;
- a program offered in quarters hours must provide at least 24 quarter credit hours over 15 weeks;
- a ten week program that admits as regular students only persons who have completed the equivalent of an associate degree must provide at least 8 semester or trimester credit hours, or 12 quarter credit hours .

*16 semester or trimester credit hours is three-quarter time; 24 is full time.*

*24 quarter credit hours is three-quarter time; 36 is full time.*

Because the results of these formulas determine the eligibility of a program, the resulting number of credit hours may not be rounded upward.

If a school applies the appropriate formula and finds that a program is eligible, the converted credit hours are used to determine the amount of SFA funds that a student who is enrolled in the program is eligible to receive under the Pell Grant, FFEL, and Direct Loan programs. If, after applying the formula, the number of credit hours in the program has decreased, a student's enrollment status could change, resulting in a decrease in SFA eligibility for these programs.

A student's period of attendance is measured according to several commonly accepted academic standards. A clock hour is based on an actual hour of attendance, though each hour may include a 10-minute break. Credit hours are typically based on two hours of homework for each hour of class attendance. A school is not permitted to count more than one clock hour per 60-minute period; in other words, a school may not schedule several hours of instruction without breaks, and then count clock hours in 50-minute increments. The result would be that seven hours of consecutive instruction would count as 8.4 clock hours

## FOREIGN SCHOOLS ELIGIBLE FOR FFEL PROGRAMS

In general, by law, a foreign school can participate in the FFEL programs if the foreign school is comparable to an institution of higher education (as defined earlier in this section) and has been approved by the Department. Additionally, the regulations set out specific requirements for foreign medical schools. The Amendments of 1998 as implemented in regulations published October 29, 1999 added special eligibility provisions for foreign veterinary schools.

### *Foreign medical schools*

To be eligible for FFEL participation, a foreign medical school must meet the same requirements as other foreign schools and must also

- provide, and require its students to complete, a medical program of clinical and classroom instruction not less than 32 months long that is supervised closely by members of the school's faculty and that is provided either

  a) Outside the U. S., in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom medical instruction, or

  b) In the U. S., through a training program for foreign medical students that has been approved by all medical licensing boards and evaluating bodies whose views are considered relevant by the Department;

- have graduated classes during each of the two years preceding the school's application for eligibility;

- for the above-mentioned medical program, employ only faculty members whose credentials are equivalent to the credentials of faculty teaching similar courses in U.S. medical schools; and

- for a public or private nonprofit school, be accredited by a recognized agency, or for all other schools, by an authorized agency whose standards have been determined by a panel approved by the Department to be comparable to U.S. standards of accreditation for medical schools.

In addition, the law specifies the following requirements for foreign medical schools:

- at least 60% of the full-time regular students enrolled in the previous year and 60% of the most recent graduates must be other than U.S. citizens or nationals, permanent residents, or eligible noncitizens of the United States, and

**Foreign Medical School Cites**
*Sec 102(a)(2)*
*34 CFR 600.51*

***Foreign Medical School:***
*A school that is not located in a state, and is qualified and listed as a medical school in the most current World Directory of Medical Schools, published by the World Health Organization (WHO)*

- at least 60% of the students and graduates (for the past three years) who took any step of an exam from the Educational Commission for Foreign Medical Graduates (ECFMG)—including the ECFMG English test—in the previous year must have received a passing score.

A school not meeting all the 60 percent requirements can still be eligible if:

- the school's clinical training program was approved by a state as of January 1, 1992 and is currently approved; or

- the school's students complete their clinical training at an approved medical school located in the United States (this provision was added by the Amendments of 1998).

Continued eligibility is dependent upon annual submission of the data and information that demonstrates compliance with these 60% requirements (or the exception).

**Exception:** A student who was continuously enrolled at the school before the school lost eligibility, may receive an FFEL program loan for attendance at that school for the following academic year if the student received an FFEL program loan while in attendance at the school while it was eligible.

**Criteria for determining whether a foreign veterinary school is eligible to apply to participate in the FFEL programs:**

A foreign veterinary school is eligible to apply to participate in the FFEL programs if, in addition to satisfying the criteria for foreign medical schools (except the criterion that the school be public or private nonprofit), either

- the veterinary school's clinical training program was approved by a state as of January 1, 1992 and is currently approved by that state; or

- the veterinary school's students complete their clinical training at an approved veterinary school located in the U. S.

## REPORTING INFORMATION ON FOREIGN SOURCES

Federal law requires certain postsecondary schools (whether or not the school is eligible to participate in the SFA programs) to report ownership or control by foreign sources. Federal law also requires these postsecondary schools to report contracts with or gifts from the same foreign source that, alone or combined, have a value of $250,000

**Foreign School Reporting Cite**
*Sec. 117*

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3. The country to which a gift or a contract is attributable is the country of citizenship; or, if unknown, the principal residence for a foreign source who is a "natural person" and the country of incorporation, or, if unknown, the principal place of business for a foreign source that is a legal entity.

or more for a calendar year. These reports must be filed with the Department by the January 31 or July 31 (whichever is sooner) after the date of receipt of the gifts, date of the contract, or date of ownership or control. The January 31 report should cover the period July 1 – December 31 of the previous year, and the July 31 report should cover January 1 – June 30 of the same year.

## Who must report?

A school (and each campus of a multicampus school) must report this information if the school

- is legally authorized to provide a program beyond the secondary level within a state,
- provides a program that awards a bachelor's degree or a more advanced degree, or provides at least a two-year program acceptable for full credit toward a bachelor's degree,
- is accredited by a nationally recognized accrediting agency, and
- is extended any federal financial assistance (directly or indirectly through another entity or person) or receives support from the extension of any federal financial assistance to the school's subunits.

## Contents of disclosure report

Each disclosure report to the Department must contain

- for gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of the gifts and contracts attributable to a particular country;[3]
- in the case of a school that is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control;
- for gifts received from or contracts entered into with a foreign government, the aggregate amount of the gifts and contracts received from each foreign government;
- for restricted or conditional gifts received from or restricted or conditional contracts entered into with a foreign source (other than a foreign government), the amount, date of receipt of the gift or date of the contract, and description of the conditions and restrictions; and
- for restricted or conditional gifts received from, or restricted or conditional contracts entered into with a foreign government, the amount, the date of receipt of the gift or date of the

**Contract Defined**
*Any agreement for the acquisition by purchase, lease, or barter of property or services for the direct benefit or use of either of the parties*

**Gift Defined**
*Any gift of money or property*

**Restricted or conditional gift or contract:**
*Any endowment, gift, grant, contract, award, present, or property of any kind that includes provisions regarding*
- *the employment, assignment, or termination of faculty;*
- *the establishment of departments, centers, research or lecture programs, or new faculty positions;*
- *the selection or admission of students; or*
- *the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion*

contract, a description of the conditions or restrictions, and the name of the foreign government.

### Alternative reporting

In lieu of the reporting requirements listed above:

- If a school is in a state that has substantially similar laws for public disclosure of gifts from, or contracts with, a foreign source, a copy of the report to the state may be filed with the Department. The school must provide the Department with a statement from the appropriate state official indicating that the school has met the state requirements.
- If another department, agency, or bureau of the Executive Branch of the federal government has substantially similar requirements for public disclosure of gifts from, or contracts with, a foreign source, the school may submit a copy of this report to the Department.

### *Where to report foreign gift information*

Foreign Gift information must be sent to Case Management and Oversight using the electronic application. The specific information about foreign gifts must be reported in question 69 (section K).

If a school fails to comply with the requirements of this law in a timely manner, the Department is authorized to undertake a civil action in federal district court to ensure compliance. Following a knowing or willful failure to comply, a school must reimburse the Treasury of the United States for the full costs of obtaining compliance with the law.

All information provided by schools under this law is open to inspection and duplication by members of the public.

## SOLOMON-POMBO AMENDMENT

The Solomon-Pombo Amendment was enacted on September 30, 1996, as part of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208). This amendment provided that federal funds could not be made available by contract or by grant to schools that were found to have denied or restricted access to military recruiters, or to have denied or restricted the establishment, maintenance, or efficient operation of a Senior Reserve Officer Training Corps (ROTC) unit.

At the end of October 1999, language was added to the Defense Department's fiscal-2000 spending bill that exempts student aid from those federal funds that can be cut off by the act. Therefore, the Solomon-Pombo act no longer affects student aid programs.

CHAPTER 2

# General Participation Requirements

*A school that participates in the SFA programs must meet certain requirements for participation. Participation standards are important because all SFA funds received by a participating school are held in trust by that school for the intended student beneficiaries (except for allowed administrative expense reimbursement). This chapter explains many of the institutional participation requirements. Additional specific participation standards are discussed in the following chapters.*

If the Department determines that a school has met the eligibility requirements (discussed in chapter 1), the Department then assesses the school's financial responsibility and administrative capability. These evaluations are used to determine whether the school may be certified for participation in the SFA programs. For more information on administrative capability and financial responsibility, see chapters 3 and 4 respectively.

Once the Department certifies a school to participate in the SFA programs, the school is bound by the requirements of those programs. To begin its participation, a school must enter into a Program Participation Agreement.

## THE PROGRAM PARTICIPATION AGREEMENT

An eligible school must enter into a Program Participation Agreement (PPA) with the Department to participate in the following programs: Pell Grant, Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work-Study (FWS), Federal Perkins Loan (Perkins), Federal Direct Loan Program (DL) and Federal Family Education Loan (FFEL).

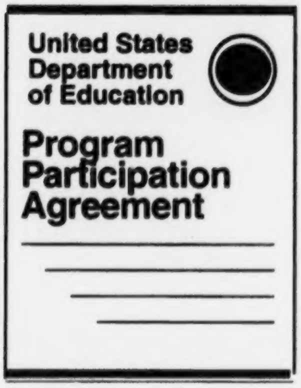
**Program Participation Agreement Cites**
*Sec. 487, 34 CFR 668.14*

### *Purpose and scope of the PPA*

Under the PPA, the school agrees to comply with the laws regulations, and policies governing the SFA programs. After being certified for SFA program participation, the school must administer SFA program funds in a prudent and responsible manner. A PPA contains critical information about a school's participation in the SFA programs. In addition to the effective date of a school's approval, the date by which the institution must reapply for participation, and the date on which the approval expires, the PPA lists the SFA programs in which the institution is eligible to participate.

After enumerating the SFA programs in which an institution is authorized to participate, a PPA states the General Terms and Conditions for institutional participation. By signing the PPA a school agrees to

1. comply with the program statutes, regulations, and policies governing the SFA programs;
2. establish a drug abuse prevention policy accessible to any officer, employee or student at the institution;
3. comply with
   a. the Campus Security Policy and Crime Statistics disclosure requirements of the HEA;
   b. Title VI of the Civil Rights Act of 1964, as amended, barring discrimination on the basis of race, color, or national origin;
   c. Title IX of the Education Amendments of 1972, baring discrimination on the basis of sex;
   d. Section 504 of the Rehabilitation Act of 1973, baring discrimination on the basis of physical handicap; and
   e. The Age Discrimination Act of 1975;
4. acknowledge that the Department, states, and accrediting agencies share responsibility for maintaining the integrity of the SFA programs and that these organizations may share information about the institution without limitation; and
5. acknowledge that the institution must, prior to any other legal action, submit any dispute involving the final denial, withdrawal, or termination of accreditation to final arbitration.



United States
Department
of Education

Program
Participation
Agreement

## *PPA Requirements*

In addition to the general statement that an institution will comply with the program statutes, regulations, and policies governing the SFA programs, a PPA contains references to selected important provisions of the General Provisions Regulations (34 CFR Part 668). Some of the specific requirements in 34 CFR 668 enumerated in a PPA are discussed below. Others are discussed elsewhere in this Handbook. The PPA specifies that:

1. The institution will use funds received under any SFA program as well as any interest and other earnings thereon solely for the purposes specified for that program.
2. If the institution is permitted to request SFA program funds under an advance payment method, the institution will time its requests for funds to meet only the institution's immediate SFA program needs (see chapter 5).

3. Schools cannot charge for processing or handling any application or data used to determine a student's SFA eligibility. For instance, the school may not charge (or include in the student's cost of attendance) a fee to certify a loan application, complete a deferment form, process a Pell Grant payment, verify an application, or send or request a financial aid transcript.

   A student may always use the Free Application for Federal Student Aid (FAFSA) to apply for SFA program funds. However, a school may require additional data that are not provided on the federal form to award institutional or state aid. Institutional charges for collecting such data must be reasonable and within marginal costs.

4. The institution will comply with the provisions of 34 CFR 668 relating to factors of financial responsibility and administrative capability (see chapters 3 and 4).

5. The school will provide timely information on its administrative capability and financial responsibility to the Department and to the appropriate state, guaranty, and accrediting agencies (see chapters 3 and 4).

6. The school must, in a timely manner, complete reports, surveys, and any other data collection effort of the Department including surveys under the Integrated Postsecondary Education Data System (IPEDS).

7. The institution will not provide any statement to a student or certification to a lender that qualifies the student for a loan or loans in excess of that to which the student is entitled according to the appropriate regulations.

8. The institution will provide information concerning institutional and financial assistance information as required to students and prospective students (see chapter 7).

**Information for Students Cite**
*34 CFR 668.47*

9. If the school advertises job placement rates to attract students, it must provide a prospective student with any relevant information on state licensing requirements for the jobs for which the offered training will prepare the student. Also, the school must provide a statement disclosing the most recent available data concerning employment statistics, graduation statistics, and other information to substantiate the truthfulness of the advertisements.

10. If the institution participates in the FFEL program, the institution will provide borrowers with information about state grant assistance from the state in which the institution is located, and will inform borrowers from other states of the sources of information about state grant assistance from those states.

11. If the institution provides financial assistance to students under the ability to benefit provisions, the institution will make available to those students a program proven successful in assisting students in obtaining the recognized equivalent of a high school diploma.

12. The school cannot deny SFA funds on the grounds that a student is studying abroad if the student is studying in an approved-for-credit program (see chapters 1 and 9).

13. To begin participation in the FFEL programs (or if a school changes ownership or changes its status as a parent or subordinate institution), the school must develop a default management plan for approval by the Department and must implement the plan for at least two years. (chapter 3 and *Volume 8 — Direct Loan and FFEL Programs.*

    The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998), provide that a school is exempt from submitting a default management plan if (a) the parent institution and the subordinate institution both have a cohort default rate of 10% or less and (b) the new owner of the parent or subordinate institution does not own, and has not owned, any other school with a cohort default rate over 10%.

14. The school must acknowledge the authority of the Department and other entities to share information regarding fraud, abuse, or the school's eligibility for participation in the SFA programs (see chapter 11).

15. The school may not knowingly employ or contract with (in the administration of or receipt of SFA funds) any individual, agency, or organization that has been convicted of or pled guilty or nolo contendere to a crime or was judicially determined to have committed fraud involving the acquisition, use, or expenditure of federal, state, or local government funds or has been administratively or judicially determined to have committed fraud or any other material violation involving federal, state, or local government funds.

16. In the case of an institution that offers athletically related student aid, it will disclose the completion and graduation rates of student athletes and the athletic program participation and financial support pursuant to 34 CFR 668.47 and 34 CFR668.48 in conformance with the EADA (see chapter 7).

17. The school cannot penalize in any way a student who is unable to pay institutional costs due to compliance with the SFA program requirements or due to a delay in federal aid disbursement caused by the school.

18. The school cannot pay or contract with any entity that pays commissions or other incentives based directly or indirectly on securing enrollment or financial aid (except when recruiting foreign students ineligible for SFA program funds) to persons engaged in recruiting, admission, or financial aid administration.

19. The school must comply with the requirements of the Department as well as those of accrediting agencies (see chapter 1).

20. The school must comply with the requirements for the return of Title IV funds when a student withdraws (see chapter 6).

21. The institution is liable for all improperly administered funds received or returned under the SFA programs including any funds administered by a third-party servicer.

22. If the stated objectives of an educational program offered by the institution are preparing students for gainful employment in a recognized occupation the institution will

    a. demonstrate a reasonable relationship between the length of the program and entry level requirements for the recognized occupation, and

    b. establish the need for the training for the student to obtain employment in the recognized occupation for which the program prepares the student.

23. Either the institution or the Department may terminate a PPA.

## Voter Registration Required

The Amendments of 1998 added a requirement that a school make a good faith effort to distribute voter registration forms unless the school is located in a state that has in effect the motor vehicle–voter registration provision of the National Voter Registration Act. Schools are to request the forms from the state 120 days prior to the deadline for registering to vote within the state. A school must make an effort to distribute the forms to each student attending the school, and must make the forms widely available to students who are enrolled in a degree or certificate program.

The voter registration requirement applies to general elections and special elections for federal office including the election for governor or other chief executive within a state. Schools in Puerto Rico are not subject to this provision because Puerto Rico is not a state under the National Voter Registration Act.

Members of the Executive Branch (e.g., the Department) are prohibited from instructing schools concerning the implementation of these provisions.

The above list is not exhaustive; schools must carefully review all of the requirements listed on their PPA and those specified in 34 CFR 668.14. In addition, a school must meet any requirements for participation specific to an individual SFA program.

### *GED preparatory program required*

As mentioned above, a school that admits students without a high school diploma or its recognized equivalent (based on their ability to benefit) must make a GED preparatory program available to its students. The school must provide information about the availability of the GED program to affected students. The course does not have to be provided by the school itself, and the school is not required to pay the costs of the program. The GED program must be offered at a place that is convenient for the students and the school must take reasonable steps to ensure that its students have access to the program, such as coordinating the timing of its program offerings with that of the GED program. The GED program must be proven successful in preparing its students to obtain a GED—such programs include GED programs that are conducted by state and local secondary school authorities, as well as programs for which the school has documentation that statistically demonstrates success.

The law does not require a school to verify that a student is enrolled in a GED program or to monitor the student's progress in the program. A student admitted based on his or her ability to benefit who does not have a high school diploma or its recognized equivalent is not required by law to enroll in a GED program, but the school may choose to make this an admissions requirement. A student may not receive SFA program funds for the GED program although he or she may be paid for postsecondary courses taken at the same time as the GED coursework, including remedial coursework[1] at the secondary level or higher.

### *Civil rights and privacy requirements*

When a school signs the PPA, it also agrees to comply with the civil rights and privacy requirements contained in the Code of Federal Regulations (CFR) that apply to all students in the educational program, not just to SFA recipients (see chapter 8).

## DEFINITION OF A PAYMENT PERIOD

**Payment Period Cite**
*34 CFR 668.4*

One definition of a payment period is applicable to all SFA programs except FWS. The common definition is integral to requirements for the administration of SFA program funds. For example, all SFA program disbursements must be made on a payment period basis (for more information, see Chapter 5). Note that FFEL and Direct Loan disbursements must still be made in accordance with the specific disbursement rules for those programs (see *Volume 8 —*

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[1] It is the school's responsibility to determine whether a remedial program is at the secondary level. However, if the state, the school's accrediting agency, or the state agency recognized for the approval of public postsecondary vocational education determines that a remedial program is at the elementary level, the school must abide by that determination. For more on remedial coursework, including the admission of ability-to-benefit students, see *Volume 1 — Student Eligibility*.

*FFEL/DL* for specific information on FFEL and Direct Loan disbursements).

Under the payment period definition, there are two sets of requirements one for term-based credit hour programs, and one for nonterm credit hour programs and all clock hour programs. There is no separate definition for clock hour programs that are offered in terms.

## *Payment period for term-based credit hour programs*

For a program offered in semester, trimester, quarter, or other nonstandard academic terms and measured in credit hours, the payment period is the term. For example, if a loan period includes all three quarters of an academic year, the loan must be disbursed in three substantially equal payments.

**Payment Periods in the Return of Title IV Funds**

*Schools that use payment periods as the basis for their return of funds calculations should note that making multiple disbursements within a payment period does not create a new or additional payment period. A student's Title IV education loan appropriately might be included as "Aid that Could Have Been Disbursed" even though under the late disbursement rules, the loan funds could not actually be disbursed. Please see Dear Colleague Letter GEN-00-24, December 2000 for guidance on how multiple disburse-ments within a period affect the return of funds calculation.*

### Term-Based Credit Hour Programs

| *Program offered in...* | *Payment Period is...* |
|---|---|
| ● semester | ● semester |
| ● trimester | ● trimester |
| ● quarter | ● quarter |
| ● other academic term | ● other academic term |

Programs that are offered in modules are not counted as programs measured in terms. The phrase *other academic terms* (also known as nonstandard terms) refers to those structured educational intervals at a school that do not fit into a normally defined semester, trimester, or quarter term. For example, other academic terms could include six five-week terms. A school may choose to group modules together and treat the entire period as a standard term. (For example, grouping three five-week modules together to create a 15-week *semester*, or grouping four one-month modules into a 16-week *term* would be acceptable).

## *Payment period for nonterm credit hour programs and clock hour programs*

Payment periods for programs measured in credit hours without terms and all clock hour programs vary depending on whether the length of the program is

- one academic year or less,
- a multiple of a full academic year,

- longer than an academic year with a remainder shorter than or equal to one half of an academic year, or
- longer than an academic year with a remainder shorter than an academic year, but longer than one half of an academic year.

## Payment period for programs of an academic year or less

If the program is an academic year or less in length, the first payment period is the period of time in which the student completes the first half of the program, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the program as measured in credit or clock hours.

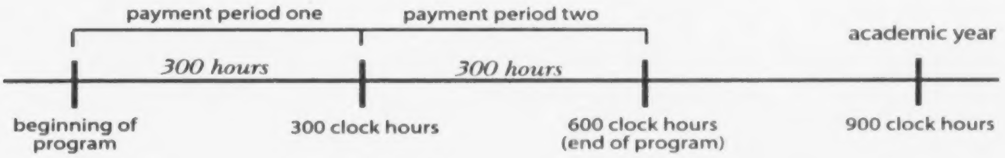
### Payment Period for Nonterm Credit Hour Programs and All Clock Hour Programs of One Academic Year or Less

| *First payment period* | *Second payment period* |
|---|---|
| ● period of time in which student completes first half of the program | ● period of time in which student completes remainder of the program |

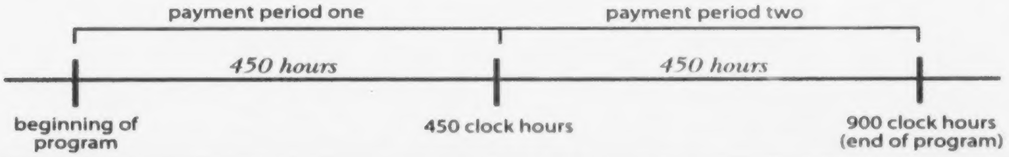
For example, if a program is 600 clock hours and the academic year is defined as 900 clock hours, the first payment period is the period of time needed for the student to complete the first 300 clock hours. The second payment period would be the period of time needed for the student to complete the last 300 clock hours (see example one below). If the program were equal to the academic year (900 clock hours), the first payment period would be the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the second 450 clock hours (see example two below).

### One Academic Year or Less Example

1


payment period one
payment period two
academic year
300 hours
300 hours
beginning of program
300 clock hours
600 clock hours (end of program)
900 clock hours

2


payment period one
payment period two
450 hours
450 hours
beginning of program
450 clock hours
900 clock hours (end of program)

## Payment period for programs of multiples of an academic year

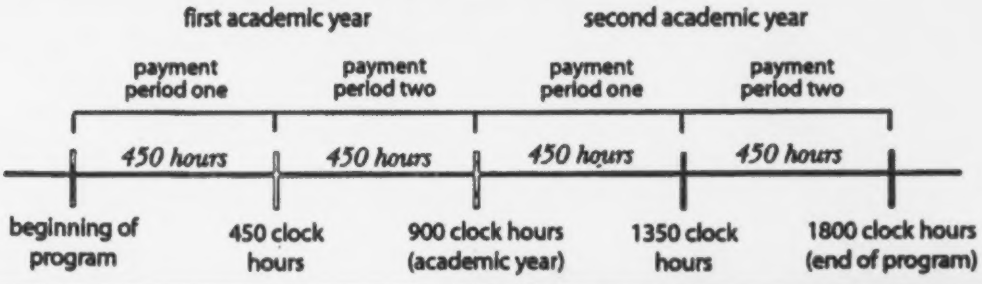
If the program is equal to two or more complete academic years, for the first academic year and any subsequent academic year, the first payment period is the period of time in which the student completes the first half of the academic year, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the academic year as measured in credit or clock hours.

For example, if a program is 1,800 clock hours and the academic year is defined as 900 clock hours, the first payment period for both the first and subsequent academic year is the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the next 450 clock hours (see example below).

### Payment Periods for Nonterm Credit Hour Programs and All Clock Hour Programs Longer Than One Academic Year

| *Program length* | *First and subsequent full academic years* | | *Remainder of program* | |
|---|---|---|---|---|
| | *First payment period* | *Second payment period* | *First payment period* | *Second payment period* |
| multiples of a full academic year | period of time in which student completes first half of academic year | period of time in which student completes second half of academic year | N/A | N/A |
| longer than academic year, remainder shorter than or equal to one half an academic year | period of time in which student completes first half of academic year | period of time in which student completes second half of academic year | period of time in which student completes remainder of program | N/A |
| longer than academic year, remainder shorter than academic year, but longer than half an academic year | period of time in which student completes first half of academic year | period of time in which student completes second half of academic year | period of time in which student completes first half of remainder of the program | period of time in which student completes second half of remainder of the program |

## Multiples of an Academic Year Example


first academic year
second academic year
payment period one
payment period two
payment period one
payment period two
450 hours
450 hours
450 hours
450 hours
beginning of program
450 clock hours
900 clock hours (academic year)
1350 clock hours
1800 clock hours (end of program)

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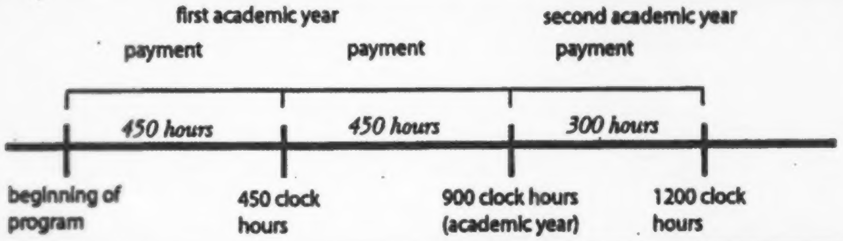
## Programs longer than an academic year with a remainder

If the program is longer than an academic year, but has a remaining portion of the program that is not equal to an academic year, for the first academic year and any subsequent full academic year, the first payment period is the period of time in which the student completes the first half of the academic year, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the academic year as measured in credit or clock hours. For the remaining portion of the program, if the remainder is equal to or shorter than one half of an academic year, the payment period is the remaining portion of the program.

For example, if a program is 1200 clock hours and the academic year is defined as 900 clock hours, the first payment period for the first academic year is the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the next 450 clock hours. The first, and only, payment period for the second academic year is equal to the remaining portion of the program.

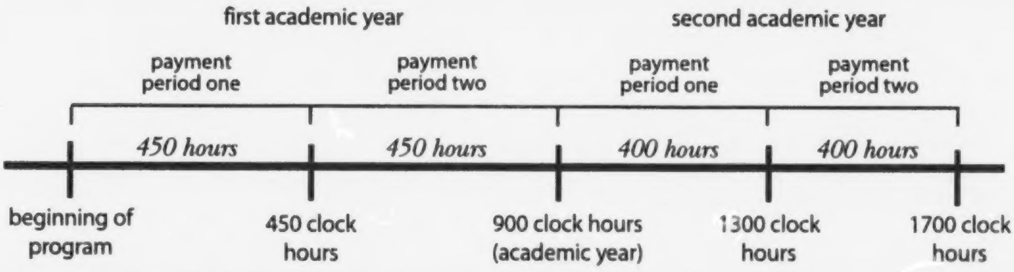
**Remainder Equal To or Shorter Than Half an Academic Year Example**



If the remaining portion of the program is more than one half of an academic year but less than a full academic year, for the remaining portion of the program the first payment period is the period of time in which the student completes the first half of the remaining portion of the program, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the remaining portion of the program as measured in credit or clock hours.

For example, if a program is 1,700 clock hours and the academic year is defined as 900 clock hours, the first payment period for the first academic year is the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the next 450 clock hours. The first payment period for the second academic year would be the period of time needed for the student to complete the next 400 clock hours. The second payment period for the second academic year would be the period of time needed for the student to complete the final 400 clock hours.

## Remainder Greater Than Half an Academic Year Example


first academic year
second academic year
payment period one
payment period two
payment period one
payment period two
450 hours
450 hours
400 hours
400 hours
beginning of program
450 clock hours
900 clock hours (academic year)
1300 clock hours
1700 clock hours

If a student is enrolled in a program measured in credit hours without terms and the school does not award credits until the entire program is complete, the second payment period begins on the later of

- the calendar midpoint between the first and last scheduled days of class of the program or academic year, or
- the date, as determined by the school, that the student has completed half of the academic coursework.

### Definition of coursework

The term academic coursework does not necessarily refer to credits. It may refer to the lessons or other measures of learning within a course. For instance, for a course made up of 40 equal lessons, the student reaches the halfway point in the coursework after completing 20 lessons.

- If the student completes the first 20 lessons before the calendar midpoint of the academic year, the second payment period does not begin until the calendar midpoint.
- If the student completes the first 20 lessons after the calendar midpoint of the academic year, the second payment period does not begin until the student completes the first 20 lessons.

### More than two payment periods per academic year

For a program measured in credit hours without terms and for any clock hour program, a school may choose to have more than two payment periods per academic year. If so, the length of the payment periods must be substantially equal throughout the academic year. For example, if a school chooses to have three payment periods in an academic year, each payment period must correspond to one-third of the academic year. Each subsequent payment period cannot begin until the student completes the clock or credit hours in the previous payment period. If a school chooses to have more than two payment periods per academic year, the school must have a written policy and apply the policy to all students who are enrolled in the programs affected.

**Loan Periods Cite**
*CFR 34 682.604(c)(6) and (7)*

# ACADEMIC YEAR REQUIREMENTS

## *Thirty-week minimum of instructional time*

**Academic Year Cite**
*34 CFR 668.2*

Every eligible program, including graduate programs, must have a defined academic year. A program with a defined academic year of less than 30 weeks of instructional time must adjust the eligibility of students in that program for SFA program funds. In addition, for undergraduate programs, during the 30 weeks of instructional time, a full-time student must complete at least 24 semester or trimester hours, 36 quarter hours, or 900 clock hours, as appropriate. The department grants schools discretion to establish the amount of work a full-time graduate or professional student is expected to complete over an academic year.

## *Determining academic year length*

A school may have different academic years for different programs or cohorts of students in programs, but must use the same academic year definition for

- calculating all SFA awards for students enrolled in a particular program, and
- all other SFA program purposes, such as the certification of loan deferments.

To determine the number of weeks of instructional time, a school must count the period that begins on the first day of classes and ends on the last day of classes or examinations.

## Definition of a week of instructional time

For all programs except those measured in credit hours without standard terms, a *week of instructional time* is any seven-consecutive day period in which at least one day of regularly scheduled instruction, examination, or (after the last day of classes) at least one scheduled day of study for examinations occurs. (Instructional time does not include periods of orientation, counseling, homework, vacation, or other activity not related to class preparation or examination.) The requirements for a *week of instructional time* are similar to those for a *week of instruction* for the eligible program definitions. See the discussion of *Weeks of Instruction and the 12-Hour Rule* in chapter 1.

## 12-hour rule and definition of an academic year

The concept 12-hour rule/week of instructional time is also used in determining whether a nonterm or nonstandard term undergraduate program is a full academic year in length. An academic year is defined as containing at least 30 weeks of instructional time. If an otherwise eligible program includes less than 30 weeks of actual instructional time, the school must make certain adjustments in calculating the eligibility of students for SFA funds.

Since a nonterm or nonstandard term credit hour program must include at least 360 hours of instruction per academic year (12 hours per week times 30 weeks, a nonterm or nonstandard term credit hour program that meets for less than 12 hours per week would have to meet more than 30 weeks in order to be equivalent to a full academic year (360 hours). For example, a program that includes only 10 hours of instruction per week must meet for 36 calendar weeks in order to be considered a full academic year in length (10 hours per week times 36 calendar weeks = 360 hours of instructional time).

## *Reductions in academic year length*

The law permits schools that provide two-year or four-year associate or baccalaureate degree programs to apply to the Department if they want to establish a full academic year of less than 30 weeks of instructional time. The Department is permitted to grant a reduction in the length of an academic year to, no less than 26 weeks of instructional time. If a reduction is approved, a school is permitted to have an academic year of less than 30 weeks (but no less than 26 weeks) of instructional time, without any reduction in the amount of SFA funds that a student enrolled in an eligible program may receive for an entire academic year.

Schools that want to begin or continue to operate with a reduced academic year on a long-term basis must reapply each time the school is required to apply for recertification.

When evaluating a school's application for a reduction, the Department will consider factors such as:

- the school's compliance with awarding and disbursement procedures based on the academic year requirements of the Higher Education Amendments of 1992;
- the approval of the academic year by the school's accrediting agency or state agency;
- the hours of attendance and other coursework that a full-time student is required to complete in the academic year; and
- any unique circumstances that justify granting the request.

For further details on the information required for submission of a request for a reduction, see 34 CFR 668.3.

If a school that is ineligible for a reduction in the length of an academic year because the school has failed to comply with the awarding and disbursement procedures wishes to apply for a reduction, the school first must make arrangements with the Department to recalculate awards as necessary and repay any resulting liabilities. The Department will consider but is not required to approve the school's request for a reduction in its academic year.

# CONTRACTS WITH THIRD-PARTY SERVICERS

**Third party Servicer Cite**
*34 CFR 668.25*

Schools are permitted to contract with consultants for assistance in administering the SFA programs. However, the school ultimately is responsible for the use of SFA funds and will be held accountable if the consultant mismanages the programs or program funds.

Section 668.25 of the General Provisions regulations contains requirements for all participating institutions that contract with third-party servicers. As defined by regulation, a third-party servicer is an individual or organization that enters into a contract (written or otherwise) with a school to administer any aspect of the institution's SFA participation.

Examples of functions that are covered by this definition are:

- processing student financial aid applications, performing need analysis, and determining student eligibility or related activities;
- certifying loan applications, servicing loans, or collecting loans;
- processing output documents for payment to students, and receiving, disbursing, or delivering SFA funds;
- conducting required student consumer information services;
- preparing and certifying requests for advance or reimbursement funding, preparing and submitting notices and applications required of eligible and participating schools, or preparing the Fiscal Operations Report and Application to Participate (FISAP); and
- processing enrollment verification for deferment forms or Student Status Confirmation Reports.

## *Excluded activities*

Examples of functions excluded from this definition are:

- performing lock-box processing of loan payments,
- performing normal electronic fund transfers (EFTs),
- publishing ability-to-benefit tests,
- acting as a Multiple Data Entry Processor (MDE),
- financial and compliance auditing,
- mailing documents prepared by the institution or warehousing institutional records,

- participating in written arrangements between eligible institutions to make eligibility determinations and SFA program awards under 34 CFR 668.5(d)(2); and

- providing computer services or software.

## *Employees of a school*

An employee of a school is not a third-party servicer. For this purpose, an employee is one who:

- works on a full-time, part-time, or temporary basis,

- performs all duties on site at the school under the supervision of the school,

- is paid directly by the school,

- is not employed by or associated with a third-party servicer, and

- is not a third-party servicer for any other school.

## *Requirements for contracting with a third-party servicer*

A school may only contract with an eligible third-party servicer, as specified by the regulatory criteria. Under such a contract, the servicer agrees to comply with all applicable requirements, to refer any suspicion of fraudulent or criminal conduct in relation to SFA program administration to the Department's Inspector General, and, if the servicer disburses funds, to confirm student eligibility and make the required returns to Title IV funds when a student withdraws.

If the contract is terminated, or the servicer ceases to perform any functions prescribed under the contract, the servicer must return all unexpended SFA funds and records related to the servicer's administration of the school's participation in the SFA programs.

## *Institutional liability*

A school remains liable for any and all SFA-related actions taken by the servicer on its behalf.

## *Notifying the Department of contracts*

Schools are required to notify the Department of all existing third-party servicer contracts. If a school has not notified the Department, the school immediately must do so by providing the Department with the following information for each third-party servicer with which the school contracts:

- name, address,

- employer identification number,

- telephone number,
- fax number, and
- Internet address.

If a school has submitted information regarding its third-party servicers as part of an application for certification or recertification, no additional submission is required. A school is not required to notify the Department if it does not contract with any third-party servicers.

Schools are also required to notify the Department if the school enters into a contract with a new third-party servicer, the school significantly modifies a contract with an existing third-party servicer, the school or one of its third-party servicers terminates a contract, or a third-party servicer ceases to provide contracted services, goes out of business, or files for bankruptcy. Notification to the Department (which must include the name and address of the servicer and the nature of the change or action) must be made within 10 days of the date of the change or action.

The Amendments of 1998 make it clear that a school must provide a copy of its contract with a third-party servicer only upon request. A school is not required to submit the contract as part of the recertification process.

Additions or changes to a school's third-party servicers must be reported to the Department on Section J of the Application for Approval to Participate in Federal Student Financial Aid Programs (see chapter 10).

## ANTI-DRUG ABUSE REQUIREMENTS

The HEA requires a school to certify to the Department that it operates a drug abuse prevention program that is accessible to its students, employees, and officers. Two other laws added related requirements for postsecondary schools that receive SFA funds.

The Drug-Free Workplace Act of 1988 (Public Law 101-690) requires a federal grant recipient to certify that it provides a drug-free workplace. Because a school applies for and receives its campus-based allocation directly from the Department, the school is considered to be a grantee for purposes of the Act. Therefore, to receive campus-based funds, a school must complete the certification on ED Form 80-0013, which is part of the FISAP package (the application for campus-based funds). This certification must be signed by the school's CEO or other official with authority to sign the certification on behalf of the entire institution.

## *Requirements for a drug-free workplace*

The certification lists a number of steps that the school must take to provide a drug-free workplace, including:

- establishing a drug-free awareness program to provide information to employees;
- distributing a notice to its employees of prohibited unlawful activities and the school's planned actions against an employee who violates these prohibitions; and
- notifying the Department and taking appropriate action when it learns of an employee's conviction under any criminal drug statute.

A school's Administrative Cost Allowance (ACA) may be used to help defray related expenses, such as the cost of printing informational materials given to employees. For more information on ACAs, see chapter 5.

## *Scope of the Act*

The drug-free workplace requirements apply to all offices and departments of a school that receives campus-based funds. Organizations that contract with the school are considered subgrantees not subject to the requirements of the Drug-Free Workplace Act.

## *Submission of certification to the department*

The Drug-Free Schools and Communities Act (P.L. 101-226) requires a school to certify that it has adopted and implemented a program to prevent drug and alcohol abuse by its students. Unlike the annual drug-free workplace certification, a school usually will only submit this certification to the Department once. A school that changes ownership is an exception, it must recertify.)

## *Distribution to students and staff*

The drug prevention program adopted by the school must include an annual distribution to all students, faculty and staff of information concerning drug and alcohol abuse and the school's prevention program.

## *Development and review of a drug prevention program*

A school must review its drug prevention program once every two years to determine its effectiveness and to ensure that its sanctions are being enforced. The development of a drug prevention program, although a condition for receiving SFA funds, is usually undertaken by the school administration at large, not by the financial aid office. The regulations originally published on this topic (August 16, 1990) were mailed to participating schools at the time; they offer a number of suggestions for developing a drug prevention program.

The effectiveness of a school's drug prevention program may be measured by tracking:

- the number of drug- and alcohol-related disciplinary actions,
- the number of drug- and alcohol-related treatment referrals,
- the number of drug- and alcohol-related incidents recorded by campus police or other law enforcement officials,
- the number of drug- and alcohol-related incidents of vandalism,
- the number of students or employees attending self-help or other counseling groups related to alcohol or drug abuse, and
- student, faculty, and employee attitudes and perceptions about the drug and alcohol problem on campus.

### *Consequences of noncompliance*

A school that does not certify that it has a drug prevention program, or that fails to carry out a drug prevention program, may lose its approval to participate in the SFA programs. (See the regulations for details on the Department's sanctions and on the appeals procedures available to the school.)

Resources that schools can utilize in creating drug prevention programs are listed on the chart that follows.

## Additional Sources of Information

*The following resources are available for schools that are developing drug prevention programs.*

- ***The Center for Substance Abuse Treatment and Referral Hotline.***

  Information and referral line that directs callers to treatment centers in the local community. (1-800-662-HELP)

- ***The Center for Substance Abuse Prevention Helpline.***

  A line that provides information only to private entities about workplace programs and drug testing. Proprietary and private nonprofit but not public postsecondary schools may use this line. (1-800-967-5752)

- ***The National Clearinghouse for Alcohol and Drug Information.***

  Information and referral line that distributes U.S. Department of Education publications about drug and alcohol prevention programs as well as material from other federal agencies. (1-301-468-2600)

# ANTI-LOBBYING CERTIFICATION AND DISCLOSURE

In accordance with P.L. 101-121 (and regulations published December 20, 1989), any school receiving more than $100,000 for its participation in the Campus-Based Programs must provide the following to the Department for:

- Certification Form (combined with Debarment and Drug-Free Workplace Certifications, ED-80-0013). The school will not use federal funds to pay a person for lobbying activities in connection with federal grants or cooperative agreements. This certification must be renewed each year for a school to be able to draw down campus-based funds.

- Disclosure Form (Standard Form LLL). If the school has used nonfederal funds to pay a noninstitutional employee for lobbying activities, the school must disclose these lobbying activities to the Department. The school must update this disclosure at least quarterly and when changes occur.

Both of these forms are sent to schools with the campus-based fiscal report/application (FISAP) each summer. The certification form and the disclosure form must be signed by the CEO or other individual who has the authority to sign on behalf of the entire institution. A school is advised to retain a copy in its files.

Primarily, these certifications cover the use of the campus-based Administrative Cost Allowance (ACA). **Association membership is not a legitimate administrative cost of the SFA Programs.** Schools may not use the ACA to pay for their membership in professional associations (such as NASFAA, AICS, NACUBO, etc.), regardless of whether the association engages in lobbying activities.

The school is also responsible for payments made on its behalf, and must include the certification in award documents for any subgrantees or contractors (such as need analysis servicers, financial aid consultants, or other third parties paid from the ACA). See page 2-85 for more information on the ACA.

# Administrative Capability

CHAPTER 3

*To be certified to participate in the SFA programs, a school must demonstrate that it is administratively capable of providing the education it promises and of properly managing the SFA programs. This chapter discusses the requirements a school must meet to demonstrate its administrative capability.*

## REQUIRED ELECTRONIC PROCESSES

To be considered administratively capable of participating in an SFA program, a school must participate in all electronic processes that are required by the Department, if the processes are provided at no substantial charge to the school. To comply with this requirement, a school may use software provided by the Department or software developed by the school or its vendor in accordance with specifications provided by the Department. Alternatively, a school may meet this requirement by the use of a third-party servicer. For more information on third-party servicers, see chapter 2.

**Administrative Capability Cites**
*34 CFR 668.16*

**Electronic Processes Cite**
*34 CFR 668.16 (o)*

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998), require the Department to notify, as practicable, schools, guaranty agencies, lenders, interested software providers, and, upon request, other interested parties, of software and hardware requirements by December 1 prior to the beginning of an award year.

The Technical Specifications Table on the next page contains information on the current and future minimum configurations required for participating in the Department's electronic processes. Current hardware and software requirements are listed on the right. Beginning January 1, 2002, for the 2002-2003 processing year, our electronic processes will require participating schools to meet the hardware and software requirements that appear in the left-hand column. When reviewing these updated specifications, you should be aware that your system capacity requirements (processor speed, RAM, hard drive storage, etc.) will be affected by specific factors at your school, including which SFA functions your school uses, the number of records processed, and school database interfaces. For additional information on the Department's current technical requirements, see DC GEN-00-20, November 2000.

New

## Technical Specifications

| | *Minimum Configuration Reuired by January 1 2002* | *Current Minumum Configuration (Depending Upon Volume and Usage)* |
|---|---|---|
| ***Equipment*** | IBM or fully IBM-compatible PC | IBM or fully IBM-compatible PC |
| | 800 MHZ processor or comparable | 200 MHZ Pentium processor or comparable |
| | 128 MB RAM | 64 MB RAM |
| | 20 GB hard disk space | 4.0 GB SCSI hard drive |
| | 56K modem (that meets or is upgradable to V.90 standard) | 56K analog modem |
| | 3.5"/1.44 MB diskette drive | 3.5"/1.44 MB diskette drive |
| | SVGA Monitor with 800X600 resolution | SVGA monitor |
| | Windows 95 keyboard | Windows 95 keyboard |
| | Laser printer capable of printing on standard paper (8 1/2" x 11") | Laser printer capable of printing on standard paper (8 1/2" x 11") |
| | 24x CD-ROM Drive with sound board | 12x CD-ROM drive with sound board |
| ***Software*[1]** | 32 bit operating system (Windows 98, Windows NT 4.0, or Windows 2000) | 32 bit operating system (Windows 95 or Windows NT 4.x) |
| | Internet service provider that supports 56K modem | Internet service provider (ISP) |
| | Netscape Navigator 4.73 or Internet Explorer4.01 (service pack2) Web browser | Netscape Navigator 3.0 or 3.01 (domestic) or Web browser |
| ***Phone Line*** | Dedicated phone line | Dedicated phone line |
| ***Diskettes*** | 3.5" high density double-sided diskettes | 3.5" high density double-sided diskettes |

[1] *Supported networks: Windows NT and Novell Netware*

## *Access to the "Information for Financial Aid Professionals" Web site*

Schools no longer automatically receive information from the Department through the mail, including most Dear Colleague/Partner letters, announcements, Federal Registers, etc. Instead, schools must have the capability to retrieve such documents from the Department's Information for Financial Aid Professionals Web Site (IFAP). You can find the IFAP Web Site at:

http://ifap.ed.gov/

A school also can sign up to receive via e-mail, a summary of postings to IFAP.

A school that uses a third-party servicer to meet this requirement needs to ensure that it is kept informed by its third-party servicer of all information posted by the Department on the IFAP Web site.

A school may enroll in the Department's *fax broadcast* service to receive automatically by facsimile high-priority messages from the Department. This service will be used for messages that need immediate attention. These messages will be posted on the IFAP Web site also. To enroll, a school may call 1-800-4FEDAID.

In order for a school to meet this requirement, as well as have the capability to submit recertification documents over the Internet, as discussed below, it must have Internet access through an Internet Service Provider, and have a World Wide Web browser, i.e., Netscape Navigator or Microsoft Internet Explorer. Those interested in downloading a copy of the Netscape Navigator software can find it at

http://home.netscape.com.

The web address to download the Microsoft Internet Explorer software is

http://www.microsoft.com/windows/ie/download/

Schools must have the capability to print *Federal Registers* or other complex documents provided in portable document format (PDF). The software for viewing and printing PDF files can be downloaded onto a school's PC hard drive for free from the Adobe Systems Web site at

http://www.adobe.com/prodindex/acrobat/readstep.html.

Of course, a school may use other software to print these documents.

## *Submission of the Application to Participate (Recertification) through the Internet:*

Applications for recertification, reinstatement, or changes in school ownership or structure must be submitted to the Department electronically through the Internet. The Department no longer provides diskettes to schools for submission of the *Application for Approval to Participate in Federal Student Financial Aid Programs.* However, a signature page is required and it must be mailed separately along with all required supporting documentation. Schools need to have access to the World Wide Web using a forms capable Web browser such as Netscape Navigator or Microsoft Internet Explorer. The web address to access the electronic application form is:

http://www.eligcert.ed.gov/

Schools must send electronic updates to their application data through the Internet. When a school accesses its application, it will be populated with data from the last recertification. The school changes the necessary data items, and transmits it to the Department review and acceptance. The application allows for changes in telephone numbers, fax numbers, names on the application, locations, vocational programs, etc For more information on applying for participation in the SFA programs or updating application data, see chapter 10.

## *Submission of the FISAP through TIV WAN*

In the past, a school could submit its Fiscal Operations Report and Application to Participate (FISAP) to the Department either through an electronic submission or by sending computer diskettes or magnetic tapes. Now, a school is required to submit its FISAP through the Student Aid Internet Gateway (SAIG).

## *January 1, 1999 requirements*

### Windows 95, Windows NT or higher

Since the 1999-2000 award year, schools have been required to process Department data using either Windows 95, Windows NT, or a newer version of the Windows operating system. The Department no longer supports the disk operating system (DOS) and earlier versions of Windows.

### Submission of Federal Pell Grant payment data

Since July 1, 1999, schools have been required to use the Recipient Financial Management System (RFMS). RFMS replaced the existing Pell Grant Recipient Financial Management System (PGRFMS) used to report and request Federal Pell Grant student payment information.

For more information, see the Announcement Letter published July 1998 (ANN-98-8) and Action Letter #2, published in September 1998 (P-98-4).

### Submission of SSCR data and Federal Perkins Loan data to the NSLDS

Schools are required to report Student Status Confirmation Report (SSCR) data electronically or by magnetic tape. The Department no longer accepts diskette submissions.

### Submission of Federal Perkins Loan data to the NSLDS

Since July 1, 1999, schools have been required to report Federal Perkins Loan data electronically or by magnetic tape. The Department no longer accepts diskette submissions of Federal Perkins Loan data.

## COORDINATING OFFICIAL

Another standard of administrative capability requires a participating school to designate a capable individual to administer the SFA programs and to coordinate aid from these programs with all other aid received by students attending the school. To properly package and most effectively use the various types of student assistance (federal, school, state, private, etc.), the coordinating official must be aware of all aid received by students attending the school, regardless of the source. When creating a student's financial aid package, in order to ensure that a student's aid does not exceed his or her need, an aid administrator must include aid the student is

**Capable Individual Defined**

*An individual is "capable" if he or she is certified by the state in which the school is located, if state certification is required. Other factors affecting capability include the individual's successful completion of SFA Program training provided or approved by the Department, and previous experience and documented success in SFA program administration.*

his or her need, an aid administrator must include aid the student is receiving from external sources as well as institutional aid and SFA program assistance. Therefore, a school's operations must be administered in a way that ensures all the information the school receives that might affect a student's SFA eligibility is communicated to the coordinating official and through that official to the financial aid office.

**Clarification**

## CONSISTENCY OF INFORMATION

The school must have a system of identifying and resolving discrepancies in the SFA-related information received by various school offices. Such a system must include a review of all financial aid and need analysis documents, federal and state income tax forms, and documents relating to admissions, citizenship, and previous educational experience. For instance, if a student receives veterans benefits through one school office, that office must notify the aid administrator of these benefits to ensure that the amounts are correctly reported on the student's aid application and are counted as a resource for the campus-based programs and estimated financial assistance for the Direct Loan and FFEL programs. As another example, the school's admissions or registrar's office must provide the financial aid office with any information that it has affecting a student's eligibility—the student's enrollment in an ineligible program, for instance, or past educational experience.

## OIG REFERRALS

If the school finds that a student may have engaged in fraud or other criminal misconduct in applying for SFA program funds, it must refer this information to the Department's Office of Inspector General (OIG). In turn, the OIG will notify other officials as appropriate. (Please note that this requirement does not preclude the school from notifying other law enforcement agencies as necessary.) Some examples of fraudulent information include the use of false identities, forgery of signatures or certifications, and false claims of income, citizenship, or independent student status.

## COUNSELING

The school must provide adequate financial aid counseling to all enrolled and prospective students and their families. Counseling must include, at a minimum, information about the source and amount of each type of aid offered, the method by which aid is determined and disbursed or applied to a student's account, and the rights and responsibilities of the student associated with the student's enrollment and receipt of financial aid. This information should include a description of the school's refund policy, the requirements for the treatment of SFA program funds when a student ceases enrollment, the school's satisfactory progress standards, and any other conditions or factors that may affect the student's aid package. The school must also provide entrance and exit counseling for student borrowers in the

Perkins, FFEL, and Direct Loan programs. For a complete discussion of loan counseling requirements, see the *Volume 4 — Campus-Based and Common Provisions, Volume 5 — Perkins Loans, Volume 8 — Direct Loan and FFEL Programs*, and the Direct Loan entrance and exit counseling guides.

## ADEQUATE STAFFING

To manage a school's aid programs effectively, the aid administrator must be supported by an adequate number of professional, paraprofessional, and clerical personnel. An *adequate* staff depends on the number of students aided, the number and types of programs in which the school participates, the number of applicants evaluated and processed, the amount of funds administered, and the type of financial aid delivery system the school uses. What may be adequate at one school may be completely insufficient at another. The Department will determine, on a case-by-case basis, whether a school has an adequate number of qualified persons, based on program reviews, audits, and information provided on the school's application for approval to participate in the SFA programs.

## SYSTEM OF CHECKS AND BALANCES

**Family Defined**
*A member of an individual's family is a parent, sibling, spouse, child, spouse's parent or sibling, or sibling's or child's spouse.*

**Definition of Control Cite**
*CFR 34 600.30(b)*

**Ownership Interest Cite**
*34 CFR 668.15(f)*

In addition to having a well-organized financial aid office staffed by qualified personnel, a school must ensure that its administrative procedures for the SFA programs include an adequate system of internal checks and balances. This system, at a minimum, must separate the functions of authorizing payment and disbursing or delivering funds so that no one person or office exercises both functions for any student receiving SFA funds. Small schools are not exempt from this requirement even though they may have limited staff. Individuals working in either authorization or disbursement may perform other functions as well, but not both authorization and disbursement. These two functions must be performed by individuals who are not members of the same family and who do not together exercise substantial control over the school. If a school performs any aspect of these functions via computer, no one person may have the ability to change data that affect both authorization and disbursement.

## SATISFACTORY ACADEMIC PROGRESS

**SAP Cite**
*34 CFR 668.16(e)*

Two requirements for institutional eligibility are directly related to student eligibility: satisfactory academic progress and financial aid history. An eligible school must have a policy and a procedure for measuring the academic progress of its students. A school must have a satisfactory academic progress policy (SAP) that is:

1. for a Title IV recipient, the same as or more strict than the institution's standards for a student enrolled in the same

educational program who is not receiving assistance under a SFA program; and

**Clarification**

2. includes the following elements

   - a qualitative component measurable against a norm;

   - a quantitative component that consists of a maximum timeframe in which a student must complete his or her educational program; (For an undergraduate program, the timeframe must be no longer than 150 percent of the published length of the educational program.)

     **Note:** The 150 percent maximum timeframe does not apply to graduate programs. However, an eligible school offering graduate programs must develop, disseminate, and consistently apply a policy defining the maximum timeframe graduate students have to complete their programs.

   - specific policies defining the effect of incomplete course grades, withdrawals, repetitions, and noncredit remedial courses on satisfactory progress;

   - rules for both undergraduate and graduate students who change majors, as well as for students who seek to earn additional degrees;

   - measurement in increments not to exceed the lesser of one academic year or one-half the published length of the educational program;

   - a schedule established by the school designating the minimum amount of work that a student must complete at the end of each increment;

   - provisions for a determining at the end of each increment whether the student has met the qualitative and quantitative components of the standards or exceeded the maximum timeframe;

   - provisions for consistent application of the standards to all students within categories, e.g., full-time, part-time, undergraduate, and graduate students, and educational programs established by the institution;

   - specific procedures through which a student may appeal a determination that the student is not making satisfactory progress; and

   - specific procedures for a student to reestablish that he or she is maintaining satisfactory progress.

**Note:** A thorough discussion of applying a satisfactory academic progress policy to a student's academic history can be found in *Volume 1 — Student Eligibility.*

### *Academic Amnesty/Renewal*

Some schools have Academic Amnesty/Renewal procedures through which a student can apply to have grades earned in previous semesters excluded from the calculation of the student's grade-point average. The SFA program regulations make no provision for the concept of academic amnesty or academic renewal. Though in its academic policies a school may choose to disregard courses previously attempted by a student, the school must include those courses in evaluating a student's satisfactory academic progress (SAP). However, a school may consider the circumstances a student documents in support of the student's request for amnesty/renewal as mitigating circumstances in an SAP appeal.

## FINANCIAL AID HISTORY

**Financial Aid History Cite**
*34 CFR 668.19*

**New**

A school must consider a student's financial aid history in making SFA program awards. Previously, a school was required to either obtain a paper financial aid transcript (FAT) or verify eligibility through NSLDS for all students who previously had attended a postsecondary institution. Effective July 1, 2001 new regulations eliminate the requirement that schools obtain a paper FAT. The regulations now mandate the use of NSLDS data for purposes of obtaining financial aid history information.

The regulations make a distinction between two types of transfer students. For a prior-year transfer, an institution may continue to rely on the ISIR financial aid history information it receives for that student. For a current-year transfer student, under the new regulations, instead of requesting a paper FAT from the former institution, the new institution requests updated student eligibility information from NSLDS.

The new regulations also replace the various certification, origination, and disbursement provisions in the former rules with only one requirement: an institution may not make a disbursement of SFA program funds to a current-year transfer student for seven days after it requests updated information from NSLDS. An institution may make a disbursement earlier to a student who is otherwise eligible if, within the seven-day period, NSLDS provides the updated information to the institution, or the institution obtains the information itself directly from NSLDS.

The new regulations eliminate the requirement that an institution that receives a request for the completion of a paper FAT, must respond to that request. **However, through July 1, 2001 in all cases where an institution or student requests a paper FAT, the former institution must complete and promptly return the FAT.**

# DEFAULT RATES

A school is **not** administratively capable when

- the cohort default rate for Perkins Loans made to students for attendance at the school exceeds 15% (see *Volume 5 — Perkins Loans* for details), or
- the cohort default rate for Stafford/SLS loans or for Direct Loans made to students for attendance at the school equals or exceeds 25% for one or more of the three most recent fiscal years (see *Volume 8 — Direct Loan and FFEL Programs* for details).

**Default Rates and Suspension Cite**
*34 CFR 668.17(b)*

***Default Rates and Suspension from Pell Participation Cite***
*Sec. 401(j)*
*34 CFR 668.17(b)(4)*

If a school is not administratively capable solely because of a high default rate, the Department may provisionally certify the school.

In addition to affecting a school's administrative capability and limiting the school's participation in the SFA programs, a high default rate may make a school ineligible to participate in the FFEL, Direct Loan, Federal Pell Grant, or Perkins program or cause the Department to limit, suspend, or terminate a school's participation in the SFA programs. For detailed information on default requirements refer to the Cohort Default Rate Guide that the Department provides to schools.

## *Default management plan*

In the past, a school with a Stafford/SLS default rate of specified percentages was required to implement some or all of the default reduction measures listed that were listed in 34 CFR Part 668, Appendix D of the General Provision regulations. Final regulations published December 1, 1995, removed these requirements beginning with the 1996-97 award year. However, new schools are still required to develop a default management plan prior to certification. In addition, a school that undergoes a change in ownership that results in a change in control or a school that changes its status as a main campus, branch campus, or additional location must also develop a default management plan.

**Note:** Appendix D has recently been removed. Though the Department had not established new guidelines for default management plans at the time this volume was being prepared, the Department expects those guidelines in the near future.

The Amendments of 1998 provide that a school is exempt from submitting a default management plan if (a) the parent institution and the subordinate institution both have a cohort default rate of 10% or less and (b) the new owner of the parent or subordinate institution does not own, and has not owned, any other school with a cohort default rate over 10%.

**Exemption from Default Management Plan Cite**
*Sec. 487(a)(14)(C)*
*34 CFR 668.14(b)(15)(B)(ii)*

This provision applies to schools participating in the FFEL or Direct Loan programs on or after October 7, 1998.

The Amendments also make several changes to default rate requirements for the Perkins Loan program. See *Volume 5 — Perkins Loans* for more information.

## WITHDRAWAL RATES

New schools (schools that seek to participate in an SFA program for the first time) must have an undergraduate withdrawal rate for regular students of no more than 33% for an award year in order to be considered administratively capable.

**Enrolled**

*A student enrolls when he or she completes the registration requirements (except payment of tuition and fees) at the school. Correspondence students are enrolled if they have been admitted to the program and have submitted one lesson (that was completed without the assistance of a school representative).*

When calculating the withdrawal rate, all regular, enrolled students must be included. The definition of *enrolled* does not require either payment of tuition or class attendance; therefore, the withdrawal rate calculation must include enrolled students who have not yet paid tuition or who did not actually begin attending classes. A student is considered to have withdrawn if he or she officially withdraws, unofficially drops out, or is expelled from the school or receives a refund of 100% of his or her tuition and fees. A student who withdraws from one or more courses or programs but does not withdraw entirely from the school, does not meet the definition of *withdrawn*. Instead, this action is considered a change in enrollment status (e.g.., the student reduced his credit hours from 12 to 6).

## DEBARMENT AND SUSPENSION CERTIFICATION

### *Debarment of school or its principals*

Debarment and suspension requirements are also part of the administrative capability standards. Debarment and suspension actions are imposed against individuals who the government determines constitute a current risk to federal agencies. The Department considers debarment and suspension actions by other agencies equivalent to those imposed by the Department if they have been imposed under procedures that provide due process protections equivalent to those afforded by the Department.

Before a school may receive Pell Grant or campus-based funding, a school must certify that neither the school nor its employees have been debarred or suspended by a federal agency. This certification is on the PPA and, for schools participating in the campus-based programs, is included on ED Form 80-0013 that is a part of the FISAP package mailed to schools each summer.

If the school or its principals have been suspended, debarred, or proposed for debarment by one federal agency, the school is no longer eligible to participate in any SFA program. The principals of the school include the owners, directors, officers, partners, employees, or any other person with primary management or supervisory responsibilities. A principal may also be someone who is not employed by the school but who has critical influence on or substantive influence over a covered transaction (such as the receipt of Pell Grant or campus-based funds).

If a school discovers that a person employed in a primary management or supervisory capacity has been suspended, or debarred by a federal agency, the school must remove that person from such a position or risk losing its SFA eligibility.

Similar debarment and suspension procedures apply to debarments and suspensions of lenders, third-party servicers or loan servicers under the FFEL programs.

## *Checking prospective employees or contractors*

To protect itself, a school might ask prospective employees and contractors, either in person or on a written application, about their debarment or suspension histories . A school may also call the Department to find out if an individual or organization is on the Nonprocurement List. The debarment or suspension of a person who is not a principal of the school and who does not work in the financial aid office will not affect the school's SFA eligibility, so long as that person is not involved in any covered transactions. The regulations list the particular transactions from which a debarred or suspended entity is excluded under the SFA programs.

## *Lower-tier covered transactions*

A school must not enter into lower-tier covered transactions with a debarred or suspended individual or organization. A lower-tier covered transaction is any transaction between a participant in a covered transaction (such as the school) and another individual or organization, if that transaction stems from a covered transaction. Examples of common lower-tier covered transactions are a school's contracts with a financial aid consultant service or with a loan collection or billing agency. A school must obtain a certification from any lower-tier organization if the amount of the lower-tier transaction is $25,000 or more. (The required certification clause is given on page 25 of Dear Colleague letter GEN-89-21.) The lower-tier organization must inform the school in writing if the organization or its principals are debarred or suspended. Therefore, the certification does not need to be renewed from year to year.

# Financial Responsibility

CHAPTER 4

*In this chapter, we discuss the financial responsibility requirements for all schools participating in the SFA programs.*

In order to participate in the SFA programs, a school must demonstrate that it is financially responsible. To provide the Department with the information necessary to evaluate a school's financial responsibility, schools are required to submit financial information to the Department every year. A school must provide this financial information in the form of an audited financial statement as part of a combined submission that also includes the school's compliance audit. The combined submission must be submitted to the Department within six months of the end of the school's fiscal year. See chapter 11 for more information on required audit submissions.

**Financial Responsibility Cites**
*Sec. 498(c)*
*34 CFR 668 Subpart L*

What follows is a general overview of the financial responsibility standards. Schools should refer to Subpart L of the Student Assistance General Provisions for complete information. For information regarding accounting and compliance issues, a school should contact its Case Management Team (see chart at the end of chapter 11).

The Department determines whether a school is financially responsible based on the school's ability to:

- provide the services described in its official publications and statements;
- properly administer the SFA program in which the school participates; and
- meet all of its financial obligations.

The financial responsibility standards can be divided into two categories: (1) general standards, which are the basic standards used to evaluate a school's financial health, and (2) performance and affiliation standards, which are standards used to evaluate a school's past performance and to evaluate individuals affiliated with the school.

In general, schools are no longer required to meet standards that apply specifically to the type of school by sector. Instead, differences among sectors — proprietary, private nonprofit, and public are accounted for account by the new composite score standard.

## GENERAL STANDARDS

### *Proprietary or private nonprofit institution*

A proprietary or private nonprofit institution is financially responsible if the Department determines that

- the school has a composite score of at least 1.5,
- the school has sufficient cash reserves to make the required return of Title IV funds (these requirements are known as the *refund reserve standards*),
- the school is current in its debt payments, and
- the school is meeting all of its financial obligations, including making required return of Title IV funds and making repayments to cover SFA program debts and liabilities.

These requirements are discussed in more detail below.

### Audit opinions and past performance

Even if a school meets all of the general requirements, the Department does not consider the school to be financially responsible if

- the school has a statement by the auditor in its audited financial statement expressing doubt about the continued existence of the school as a *going concern* or has an adverse, qualified, or disclaimed opinion (unless the Department determines that a qualified or disclaimed opinion does not have a significant bearing on the school's financial condition), or
- the school violated one of the past performance requirements discussed below.

### Composite score

**Ratios Cite**
*34 CFR668.171(b)(3)*

The November 25, 1997 final regulations replaced the separate tests for proprietary and private nonprofit institutions with a single standard called the *composite score standard.* The composite score standard combines different measures of fundamental elements of financial health to yield a single measure of a school's overall financial health. This method allows financial strength in one area to make up for financial weakness in another area. In addition, this method provides an equitable measure of the financial health of schools of different sizes.

**Note:** When a change in ownership occurs, the Department applies the standards created by the 1994 HEA Amendments, including the factors of acid test ratio and positive net worth.

Some aspects of the composite score methodology (for example, the calculation of ratios) vary depending on whether the school is a proprietary institution or a private nonprofit institution. The variance takes into account the accounting differences between these sectors of postsecondary institutions. However, the basic steps used to arrive at the composite score are the same. For complete information on the calculation of the composite score, schools should refer to Appendices A and B of Subpart L in the General Provisions regulations.

The first step in calculating a school's composite score is to determine the school's primary reserve, equity, and net income ratios by using information from the school's audited financial statement in the ratios established by the Department. These ratios are used to take into account the total financial resources of the school. The Primary Reserve Ratio represents a measure of a school's viability and liquidity. The Equity Ratio represents a measure of a school's capital resources and its ability to borrow. The Net Income Ratio represents a measure of a school's profitability. Upon review, some items from a school's audited financial statement may be excluded from the calculation of the ratios. For example, the Department may exclude the effects of questionable accounting treatments, such as excessive capitalization of marketing costs, from the ratio calculations. You can find more information on possible exclusions in 34 CFR 668.172(c). In addition, the Department has recently issued additional guidance on the treatment of *long-term* and other debt in calculating these ratios. You can find that guidance in DC-GEN-01-02.

A strength factor score is then calculated for each ratio using equations established by the Department. A strength factor score reflects a school's relative strength or weakness in a fundamental element of financial health, as measured by the ratios. Specifically, the strength factor scores reflect the extent to which a school has the financial resources to: 1) replace existing technology with newer technology; 2) replace physical capital that wears out over time; 3) recruit, retain, and retrain faculty and staff (human capital); and 4) develop new programs.

A weighting percentage is applied to each strength factor score to obtain a weighted score for each ratio. The weighting percentages reflect the relative importance that each fundamental element has for a school in a particular sector (proprietary or private nonprofit).

The sum of the weighted scores equals the school's composite score. Because the weighted scores reflect the strengths and weaknesses represented by the ratios and take into account the importance of those strengths and weaknesses, a strength in the weighted score of one ratio may compensate for a weakness in the weighted score of another ratio. The example on the next page illustrates the calculation of a composite score for a proprietary institution.

## Example of a Calculation of a Composite Score for a Proprietary Institution*

### Calculation of Ratios

$$\text{Primary Reserve Ratio} = \frac{\text{Adjusted Equity}}{\text{Total Expenses}} = \frac{\$760{,}000}{\$9{,}500{,}000} = 0.80$$

$$\text{Equity Ratio} = \frac{\text{Modified Equity}}{\text{Modified Assets}} = \frac{\$810{,}000}{\$2{,}440{,}000} = 0.332$$

$$\text{Net Income Ratio} = \frac{\text{Income Before Taxes}}{\text{Total Revanues}} = \frac{\$510{,}000}{\$10{,}010{,}000} = 0.332$$

### Calculation of Strength Factor Score

Primary Reserve Strength Factor Score = 20 x Primary Reserve Ratio
20 x 0.080 = 1.600

Equity Strength Factor Score = 6 x Equity Ratio
6 x 0.332 = 1.992

Net Income Strength Factor Score = 1 + (33.3 x Net Income Ratio)
1 + (33.3 x 0.051) = 2.698

### Calculation of Weighted Score

Primary reserve Weighted Score = 30% x Primary Reserve Strength Factor Score
0.30 x 1.600 = 0.480

Equity Weighted Score = 40% x Equity Strength Factor Score
0.40 x 1.992 = 0.797

Net Income Weighted Score = 30% x Net Income Strength Factor Score
0.30 x 2.698 = 0.809

### Composite Score

Sum of All Weighted Scores
0.480 + 0.797 + 0.809 = 2.086 rounded to 2.1

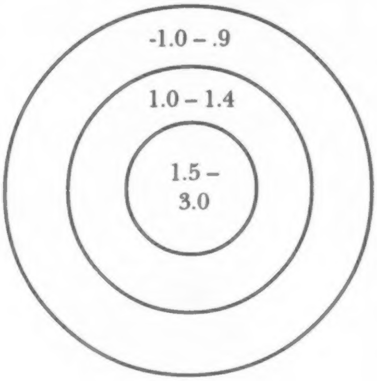
*The definition of terms used in the ratios and the applicable strength factor algorithms and weighting percentages are found in Appendix A, Subpart L, of the General Provisions for proprietary institutions and Appendix B, Subpart L for private nonprofit institutions

Once a composite score is calculated, it is measured along a common scale from negative 1.0 to positive 3.0 as indicated in the chart below. This scale reflects the degree of certainty that a school will be able to continue operations and meet its obligations to students and the Department.

**Financial Responsibility Composite Score Scale**

| | |
|---|---|
| **1.5 to 3.0** | Financially responsible without further oversight |
| **1.0 to 1.4** | Financially responsible if meet the "zone alternative" or 50% or greater letter of credit alternative. May be permitted to participate under provisional certification with smaller letter of credit, but not considered financially responsible.* |
| **-1.0 to .9** | Financially responsible if meet the 50% or greater letter of credit alternative. May be permitted to participate under provisional certification with smaller letter of credit, but not considered financially responsible ("zone alternative" not available).* |

*Transition year alternative available for one year.



## Refund Reserve Standards

**Refund Reserve Standard Cite**
*34 CFR 668.173*

A school must have sufficient cash reserves to make any required refunds/return of Title IV funds (see chapter 6 for more information on returns, including timely payment). The Department considers a school to have sufficient cash reserves if the school meets one of the following three criteria:

- satisfies the requirements of a public school (see the discussion of public schools under *General Standards*);
- is located in a state that has a tuition recovery fund approved by the Department and the school contributes to that fund; or
- demonstrates that it makes its returns to Title IV funds in a timely manner.

A school has made its returns in a timely manner if it can demonstrate, through audits for the two most recent fiscal years, that for the past two years the school has paid all required refunds/returns on time.

The Department provides for a small margin of error in determining that a school has paid all required returns on time. The Department considers a school to have paid returns in a timely manner if:

- there is less than a 5% error rate in the sample of refunds/returns examined by a reviewer or auditor (i.e., the school failed to make timely refunds to less than 5% of the students in the sample), or
- there is only one late refund/return in the sample of returns examined by a reviewer or auditor (regardless of the percentage of returns in the sample represented by the one late refund/return); and
- the reviewer or auditor did not note for either fiscal year a material weakness or a reportable condition in the school's report on internal controls that is related to refunds/returns.

If a finding is made that a school no longer meets any of the three criteria for demonstrating that it has sufficient cash reserves to make the required refunds, the school must post an irrevocable letter of credit equal to 25% of the total SFA program refunds/returns made or that should have been made by the school during its most recently completed fiscal year. The school must submit the letter of credit to the Department no later than 30 days after the school is notified of the finding. If an auditor who conducted the school's compliance audit determined that the school no longer qualifies, the school must send the letter of credit to the Department no later than 30 days after the school's compliance audit is due. A school must send the letter of credit to

U.S. Department of Education
Case Management and Oversight
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026
ATTN.: Director, CMO

In addition to posting the letter of credit, if a guaranty agency or state agency review determines that a school no longer meets the refund reserve standard, the school must notify the Department of the guaranty or state agencies determination.

When a state submits a tuition recovery fund for evaluation by the Department, the Department will consider the extent to which the recovery fund:

- provides returns to both instate and out-of-state students;
- complies with SFA program requirements for the order of return of funds to sources of assistance; and
- will be replenished if any claims arise that deplete the fund.

## Current in debt payments

A school is not current in its debt payments if

- it is in violation of any existing loan agreement at its fiscal year end, as disclosed in a note to its audited financial statements or audit opinion; or
- fails to make a payment in accordance with existing debt obligations for more than 120 days, and at least one creditor has filed suit to recover funds under those obligations.

### *Public schools*

A public school is financially responsible if its debts and liabilities are backed by the full faith and credit of the state or other government entity. The Department considers a public school to have that backing if the school notifies the Department that it is a designated as a public

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school by the State, local, or municipal government entity, tribal authority, or other government entity that has the legal authority to make that designation. The school must also provide the Department with a letter from an official of the appropriate government entity confirming the school's status as a public school. A letter from a government entity may include a confirmation of public school status for more than one school under that government's purview. The letter is a onetime submission and should be submitted as soon as possible separately from the financial statements.

Public schools also must meet the past performance and affiliation standards discussed below. In addition, public schools are required to submit financial statements prepared in accordance with generally accepted accounting principles (GAAP) and prepared on the accrual basis.

A public institution should submit the letter as follows.

**If by U.S. Postal Service:**

U.S. Department of Education
Case Management and Oversight
P. O. Box 44805
L'Enfant Plaza Station
Washington, D.C. 20026-4805

**If by commercial overnight mail/courier delivery:**

U.S. Department of Education
Case Management and Oversight
7th & D Streets, S.W.
GSA Building, Room 5643
Washington, D.C. 20407
Phone (202) 205-1936 (for this purpose)

## ALTERNATIVES TO THE GENERAL STANDARDS

**Alternative Standards and Requirements Cite**
*34 CFR 668.175*

If a school does not meet the general standards for financial responsibility, the Department may still consider the school to be financially responsible or may allow the school to participate under provisional certification if the school qualifies for an alternative standard.

If the Department determines that a school that does not meet one or more of the general standards also does not qualify for an alternative, the Department may initiate a limitation, suspension, or termination action against the school (see chapter 11 for more information).

The alternate standards were changed by the November 25, 1997 final regulations to reflect changes made to the general standards. For example, the *precipitous closure alternative* has been replaced by the *zone alternative*.

## *Letter of credit alternative for new school*

A new school (a school that seeks to participate in the SFA programs for the first time) that does not meet the composite score standard (i.e., has a composite score of less than 1.5) but meets all other standards may demonstrate financial responsibility by submitting an irrevocable letter of credit to the Department. The letter of credit must be acceptable and payable to the Department and equal to at least 50 percent of the SFA program funds that the Department determines that the school would receive during its initial year of participation.

## *Letter of credit alternative for participating school*

A participating proprietary or private nonprofit institution that fails to meet one or more of the general standards or is not financially responsible because it has an unacceptable audit opinion may demonstrate financial responsibility by submitting an irrevocable letter of credit to the Department. The letter of credit must be acceptable and payable to the Department and equal to at least 50 percent of the SFA program funds that the school has received during its most recently completed fiscal year.

## *Zone alternative*

A participating school that fails to meet the composite score standard (i.e., has a composite score of less than 1.5) but meets all other standards may demonstrate financial responsibility for up to three consecutive fiscal years if the Department determines that the school's composite score is equal to 1.0 to 1.4 for each of those years and the school meets specific monitoring requirements.

This alternative gives a school the opportunity to improve its financial condition over time without requiring the school to post a letter of credit or participate under provisional certification. Under the zone alternative, a school's operations, including its administration of the SFA programs, are monitored more closely. If a school does not score at least 1.0 in one of the three subsequent fiscal years or does not improve its financial condition to attain a composite score of at least 1.5 by the end of the three-year period, the school must satisfy another alternative standard to continue participating. In addition, if a school fails to comply with the information reporting or payment method requirements, the department may determine that the school no longer qualifies under this alternative.

Under the zone alternative, a school

- must request and receive funds under the cash monitoring or reimbursement payment methods, as specified by the Department (see chapter 5);
- must provide timely information regarding certain oversight and financial events (for example, any adverse action taken by the school's accrediting agency)

Refer to 34 CFR 668.175(d) for more information on specific reporting requirements.

- may be required to submit its financial statement and compliance audit earlier than normally required (see chapter 11 for more information on audit submission deadlines); and
- may be required to provide information about its current operations and future plans.

The school must also require its auditor to express an opinion, as part of the school's compliance audit, on the school's compliance with the requirements of the zone alternative, including the school's administration of the payment method under which the school received and disbursed SFA program funds.

## *Provisional certification for school not meeting standards*

If a participating proprietary or private nonprofit institution fails to meet one or more of the general standards or is not financially responsible because it has an unacceptable audit opinion, the Department may permit the school to participate under provisional certification for up to three years. For example, a school with a composite score of less than 1.0 that cannot post the 50% letter of credit required for the letter of credit alternative may be permitted to continue to participate under provisional certification by submitting a smaller letter of credit.

The Department may also permit a school that is not financially responsible of the school's past performance relative to the general standards or because of audit opinions to participate under provisional certification for up to three years if the school demonstrates to the Department that it has satisfied or resolved the condition.

A school that participates under provisional certification because of a lack of financial responsibility does so under the following conditions:

- The school must submit to the Department a letter of credit, payable and acceptable to the Department, for an amount determined by the Department. (This amount must be equal to at least 10% of the SFA program funds received by the school during its most recent fiscal year).
- The school must demonstrate that it has met all of its financial obligations and was current on its debt payments for its two most recent fiscal years.
- The Department may require the school to comply with the requirement under the zone alternative that the school provide timely information regarding certain oversight and financial events.

If a school is still not financially responsible at the end of a period of provisional certification, the Department may again permit provisional certification. However, the Department may require the school or persons or entities that exercise substantial control over the school to submit financial guarantees to the Department to satisfy any potential liabilities arising from the school's SFA program participation. The same persons may be required to agree to be jointly and severally liable for any SFA program liabilities.

The Department is not required to offer provisional certification to a school. It is an alternative that the Department may offer the school instead of denying an application for recertification.

### *Provisional certification for school where persons or entities owe liabilities*

If a school is not financially responsible because the persons or entities that exercise substantial control over the school owe an SFA program liability, the Department may permit the school to participate under provisional certification if:

- The persons or entities that owe the liability repay or enter into an agreement with the Department to repay the liability; in lieu of this, the school may assume the liability and repay or enter into an agreement to repay the liability.
- The school meets all the general standards of financial responsibility. (In addition the school must demonstrate that it has met all of its financial obligations and was current on its debt payments for its two most recent fiscal years.)
- The school submits to the Department a letter of credit, payable and acceptable to the Department, for an amount determined by the Department. (This amount must be equal to at least 10% of the SFA program funds received by the school during its most recent fiscal year.)

The school must comply with the requirement under the zone alternative that the school provide timely information regarding certain oversight and financial events.

In addition, the Department may require the school or persons or entities that exercise substantial control over the school to submit financial guarantees to the Department to satisfy any potential liabilities arising from the school's SFA program participation. The same persons may be required to agree to be jointly and severally liable for any SFA program liabilities.

Again, provisional certification is offered to a school at the Department's discretion. The Department is not required to offer provisional certification to a school.

# PAST PERFORMANCE AND AFFILIATION STANDARDS

In addition to meeting the numeric standards of financial responsibility and fulfilling all its financial obligations, a school must demonstrate that it properly administers the SFA programs in which it participates. Past actions of the school or individuals affiliated with the school may reveal mismanagement of SFA program funds, thereby demonstrating that a school is not financially responsible. Therefore, in evaluating the way a school administers the SFA programs, the Department considers the past performance of both the school and individuals affiliated with the school.

## *Past performance of a school*

A school is not financially responsible if the school

- in the last five years, has been subject to a limitation, suspension, or termination action or has entered into an agreement to resolve a limitation, suspension, or termination action initiated by the Department or a guaranty agency ;
- in the last two SFA program reviews or audits, has had findings for the current fiscal year or two preceding fiscal years that required repayment of more than 5% of the SFA program funds received by the school;
- has been cited during the last five years for failing to submit audits as required, or
- has failed to satisfactorily resolve any compliance issues identified in program reviews or audit reports, upheld in a final decision of the Department.

## *Past performance of persons affiliated with a school*

A school is not financially responsible if any person who exercises substantial control over the school (or any members of the person's family alone or together) owes a liability for an SFA program violation or has ever exercised substantial control over another school (or a third-party servicer) that owes a liability for an SFA program violation, unless that person, family member, institution, or servicer demonstrates that the liability is being repaid in accordance with an agreement with the Department.

**Family Member Defined**

*A member of a person's family is a parent, sibling, spouse, child, spouse's child, spouse's parent, or siblings or child's spouse.*

The Department may consider a school that does not meet this requirement to be financially responsible if the school:

- notifies the Department that the individual repaid to the Department an acceptable portion of the liability, in accordance with the regulations;
- notifies the Department that the liability is currently being repaid in accordance with a written agreement with the Department; or

- demonstrates to the satisfaction of the Department 1) why the person who exercises substantial control should nevertheless be considered to lack that control, or (2) why the person who exercises substantial control and each member of that person's family does not or did not exercise substantial control over the institution or servicer that owes the liability.

In the past, schools were required to maintain fidelity bond coverage for their employees. This is no longer a federal requirement for schools that participate in the SFA programs. However, by state law some schools are still required to maintain fidelity bond coverage. Even if a school is not required to do so, it may choose to maintain fidelity bond coverage to protect itself when losses occur because of a lack of integrity, honesty, or fidelity on the part of the school's employees or officers.

A school must report any changes of control under which a person acquires the ability to affect substantially the actions of the school. Such changes in control could call into question the school's financial responsibility (see chapter 10).

## FINANCIAL STATEMENTS

All financial statements are received by the Document Receipt and Control Center (DRCC). The Department screens financial statements it receives, makes a preliminary calculation of a school's composite score, and based on a checklist of minimum requirements, determines whether the statements are materially complete. In some cases a school may receive a more thorough analysis of their financial statements.

For more information regarding audit reporting and submission requirements refer to chapter 11.

## FOREIGN SCHOOLS

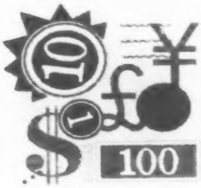
A foreign school must meet the financial responsibility standards for domestic schools unless the school received less than $500,000 (in United States dollars) in SFA program funds during its most recently completed fiscal year. A school that received less than $500,000 will have its financial responsibility determined through the Department's examination of the school's audited financial statement for the school's most recently completed fiscal year, and may have its audited financial statement prepared according to the standards of the school's home country. A foreign school that received $500,000 or more in SFA program funds during its most recently completed fiscal year must have its audited financial statement translated and presented for analysis under U.S. Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS).

# Cash Management

CHAPTER 5

*The cash management regulations govern a school's management of most SFA program funds. These regulations establish rules and procedures that a school must follow in requesting, maintaining, disbursing, and otherwise managing funds under the Pell Grant, FSEOG, Perkins Loan, FWS, Direct Loan, and FFEL programs.*

These cash management requirements are not applicable to the state grant and scholarship programs because, unlike other SFA programs, the state grant and scholarship programs are administered under rules established by the states. As long as the states administer these programs within the limits established by applicable federal statutes and regulations, the Department allows states administrative discretion in the management of these funds. These state programs are the Special Leveraging Educational Assistance Partnership (SLEAP), the Leveraging Educational Assistance Partnership Program (LEAP– formerly the State Student Incentive Grant [SSIG] Program), the Robert C. Byrd Honors Scholarship (Byrd) Program, and the Gaining Early Awareness and Readiness for Undergraduate Programs (which replaces the National Early Intervention Scholarship and Partnership [NEISP] Program).



**Cash Management Cite**
*34 CFR Subpart K*

## PURPOSE OF CASH MANAGEMENT REGULATIONS

The cash management regulations are intended to:

- promote sound cash management of SFA program funds by schools;
- minimize the costs to the government of making SFA program funds available to students and schools; and
- minimize the costs to students who receive SFA loans.

Except for funds received as an administrative cost allowance (ACA), the SFA program funds received by a school are intended solely for the use of student beneficiaries. All other funds are held in trust by the school for students, the Department, and, in the case of FFEL program funds, for lenders and guaranty agencies. SFA program funds cannot be used as collateral or for any other purpose.

**Purpose of Regulations Cite**
*34 CFR 668.161*

These rules and procedures also apply to a third-party servicer. For more information about third-party servicers, see the discussion in chapter 2.

## REQUESTING FUNDS

**Requesting Funds Cite**
*34 CFR 668.162, except as noted*

Currently, the Department provides Pell Grant, Direct Loan, and campus-based program funds to most schools either by the *advance payment method* or the *reimbursement payment method*. A third method for requesting funds from the Department is the *just-in-time payment method*. A fourth method called *cash monitoring* will be discussed later. The Department has the sole discretion to determine the method under which SFA program funds are provided to a school (although at this time, participation in the just-in-time payment method is voluntary).

### The advance payment method

***Advance Payment Method Cite***
*34 CFR 668.162(b)*

Under the advance payment method, a school may submit a request for Pell Grant, Direct Loan, and campus-based program funds to the Department prior to disbursing aid to eligible students and parents. If the Department accepts a school's request for funds, it will make an electronic funds transfer (EFT) of the amount requested to a bank account designated by the school. A school may not request more funds than the school needs immediately for disbursements the school has made or will make to eligible students and parents. Therefore, a school must make the disbursements as soon as administratively feasible, but no later than three business days following the date the school receives those funds.

The Department does not automatically accept a request for funds from a school under the advance payment method. For example, the Department may reject a request if the amount of the request exceeds the amount of funds the school is authorized to draw down.

### The reimbursement method

***Reimbursement Payment Method Cite***
*34 CFR 669.162(d)*

Under the reimbursement method, a school must disburse Pell Grant, Direct Loan, and campus-based program funds to eligible students and parents before requesting funds from the Department. Generally, the Department places a school on the reimbursement payment method if it determines that there is a need to monitor strictly the school's participation in the SFA programs. The school cannot request more cash than the amount that it actually disbursed to those eligible students and parents. As part of the school's request the school must

- identify the students and parents for whom it is seeking reimbursement; and

- submit documentation demonstrating that each student and parent included in the request was eligible to receive and has received the SFA program funds for which reimbursement is requested.

Before approving a school's request for funds, the Department determines that the school has

- accurately determined the SFA eligibility of each student;
- accurately determined the SFA payment to each student and parent included in its request; and
- submitted the required documentation.

## Limitations on use of FFEL funds

There are comparable limitations on the use of FFEL funds. If a school is placed on reimbursement or if a school that participates only in the FFEL program has most of the limitations of reimbursement placed on it, the school

**Limitations on Use of FFEL Funds Cite**
*34 CFR 668.167(d)*

- may not disburse FFEL program funds to a borrower until the Department approves the school's request to disburse funds to that borrower; and
- if prohibited by the Department, may not certify a loan application for a borrower until the Department approves the school's request to make the certification for that borrower (this restriction becomes effective on the date that the Department notifies a school that it must obtain approval from the Department to certify loan applications).

The school must provide documentation demonstrating that each borrower included in the request is eligible to receive the disbursement or certification. The documentation must be provided to the Department or an entity approved by the Department for that purpose (for example, a certified public accountant, financial aid consultant, or guaranty agency).

Until the Department approves a request, the school may be

- prohibited from endorsing a master check or obtaining a borrower's endorsement of any loan check the school receives from a lender;
- required to maintain loan funds that it receives from a lender via EFT in a separate bank account; and
- prohibited from certifying a borrower's loan application.

**Delaying Returning Funds Cite**
*34 CFR 668.167(c)(6)*

Because the school's submission and the Department's review of documentation to support a borrower's eligibility takes time, the school may delay returning FFEL Program funds provided by EFT or master check to a lender for a specified period of time (see *Volume 8 — Direct Loans and FFEL Programs*).

**Note:** This provision is applicable only in the FFEL programs.

## *The cash monitoring payment method*

**Cash Monitoring Payment Method Cite**
*34 CFR 668.162(e)*

Final regulations published November 25, 1997, introduced the cash monitoring payment method. This payment method is similar to the reimbursement payment method, but less onerous. As with the reimbursement payment method, under the cash monitoring payment method a school must make disbursements to eligible students and parents before it may request or receive funds for those disbursements from the Department.

However, unlike the reimbursement payment method, where a school must provide detailed documentation for each student to whom it made a disbursement before the Department provides SFA program funds to the school, the Department provides funds to a school in one of two less restrictive ways:

- The Department allows a school to make a draw of SFA program funds for the amount of the disbursements the school has made to eligible students and parents; or
- The Department reimburses the school for those disbursements based on a modified and streamlined review and approval process.

For example, instead of requiring a school to provide detailed documentation for each student to whom the school made a disbursement and reviewing that documentation before providing funds to the school, the Department may simply require the school to identify those students and their respective disbursement amounts and provide SFA program funds to the school based solely on that information.

A school that is placed under the cash monitoring payment method is subject to the disbursement and certification provisions that apply to FFEL program funds when a school is placed on reimbursement, but in keeping with the nature of cash monitoring, the Department may modify those provisions.

The Department may tailor the required documentation requirements on a case-by-case basis.

## *The just-in-time payment method*

**Just-in-time Payment Method Cite**
*34 CFR 668.162(c)*

The just-in-time payment method was introduced in the November 29, 1996 final regulations. In Dear Colleague letter P-98-5, the Department invited schools to consider volunteering to be the first participants in the just-in-time payment method by participating in a pilot program starting in the 1999-2000 award year. Pilot participants use the just-in-time payment method for the Pell Grant Program only. The pilot program is part of the implementation of the new Federal Pell Grant Program Recipient Financial Management System (RFMS). For more information on RFMS, see *Volume 1 — Student Eligibility.*

Under the just-in-time payment method pilot, a school submits a disbursement record (which is both a report of a disbursement and a request for funds) no earlier than five days before the actual reported date of disbursement. For each request the Department accepts for a student or parent, the appropriate amount of funds is deposited directly into the school's bank account.

Schools participating in the just-in-time payment method pilot are exempt from the following regulatory requirements with respect to Federal Pell Grant funds:

1. the *three-day-use* rule required for and discussed previously under the *Advance Payment Method*;
2. the recertification of student eligibility at the time of disbursement (an institution may rely on its determination at the time it submits the disbursement record for Federal Pell Grant funds);
3. the requirement that an institution maintain Federal Pell Grant funds in an interest-bearing bank account (see the discussion under *Maintaining and accounting for funds*); and
4. the *excess-cash* rules (see the discussion under *Excess cash* later in this chapter).

**Three Day Rule Cite**
*34 CFR 668.162(b)(3)*

**Recertification Cite**
*34 CFR 668.162(c)(3)*

**Federal Funds Account Cite**
*34 CFR 668.163(c)(3)(iii)*

**Excess Cash Cite**
*34 CFR 668.166(a)(2)*

Using this payment method, schools will have only a nominal amount of excess cash created by minor period adjustments. Since the Department will modify new requests for funds after deducting any adjustments reported by the school, large amounts of excess cash should not occur.

For pilot participants, this regulatory relief does not extend to SFA programs other than the Pell Grant Program.

The just-in-time payment method will enable the delivery system to provide the most current payment information to all system users, thereby reducing the burdens related to reconciling payment data. By providing funds based on current student-level data, just-in-time payment method will strengthen the Department's ability to monitor the integrity of the SFA programs by reducing the potential for misusing funds.

The Department's long-term goal is for all schools, except those using the reimbursement or cash-monitoring payment method, to participate in the Federal Pell Grant Program using the Just-In-Time payment method.

## GAPS

To facilitate implementation of the Education Central Automated Processing System (EDCAPS), section 668.162(a)(2) of the Student Assistance General Provisions regulations requires that each time a school requests funds from the Department, the school must identify the amount of funds requested by SFA program using the program and fiscal year designation (grant award number) that the Department assigned to the authorized funds.

In May 1998, the Department converted to the EDCAPS. Within EDCAPS is the new Grants Administration and Payments System (GAPS), a state-of-the-art delivery system that supports Title IV award and payment administration. GAPS provides on-line capabilities to request payments, adjust drawdowns, and report expenditures from the Department. It also provides continuous access to current grant and payment information, such as authorization amounts, cumulative drawdowns, current award balances, and payment histories.

Schools that participate in SFA programs that require them to submit a payment request, such as Pell Grants or campus-based programs, use GAPS to request funds. Direct Loan funds also can be drawn through the GAPS system. GAPS can be accessed through the Internet at the GAPS Web page

http://gapsweb.ed.gov.

The GAPS Web training page provides in-depth information on the GAPS system and training information for the payment request process, including the *GAPS Payee's Guide*. The address of the GAPS training page is

http://gapsweb.ed.gov/training

The GAPS Payee Hotline phone number is 1-888-336-8930.

## MAINTAINING AND ACCOUNTING FOR FUNDS

**Maintaining and Accounting for Funds Cite**
*34 CFR 668.163*

All schools must maintain a bank account into which the Department transfers, or the school deposits, SFA program funds. The account must be federally insured or secured by collateral of value reasonably equivalent to the amount of SFA program funds in the account. A school is not required to maintain a separate account for SFA program funds unless the Department specifies otherwise.

A school is not required to maintain a separate bank account for FFEL program funds that the school receives from a lender by EFT. A school must maintain and account for FFEL program funds in the same manner required for other SFA program funds.

## *Bank account notification requirements*

For each account that contains SFA program funds, a school must identify that SFA program funds are maintained in the account by

- including the phrase *federal funds* in the name of the account, or
- notifying the bank or investment company of the accounts that contain SFA program funds and keeping a copy of this notice in its records *and*, except for public institutions, filing an UCC-1 statement with the appropriate state or municipal government entity that discloses that an account contains federal funds.

The school must keep a copy of the UCC-1 statement in its records.

The requirement that a school file a UCC-1 statement when an account's name does not include the phrase *federal funds* was established to reduce the possibility that a school could misrepresent federal funds as its own funds to obtain a loan or secure credit. Because public institutions generally do not seek to obtain credit in the same manner as private institutions, they are exempt from the requirement.

The Department may require a school to maintain SFA program funds in an account that contains only SFA program funds if the Department determines that the school failed to comply with cash management requirements, recordkeeping and reporting requirements, or other program regulations.

## *Interest-bearing or investment account*

Except in the instances discussed below, the account that Direct Loan, Pell Grant, FSEOG, and FWS program funds are deposited in must be an interest-bearing account or an investment account. An investment account must consist predominantly of low-risk income-producing securities. If a school chooses to maintain federal funds in an investment account, the school must maintain sufficient liquidity in that account to make required disbursements to students.

Any interest earned on Direct Loan, Pell Grant, FSEOG, and FWS program funds maintained in an interest-bearing account or an investment account that exceeds $250 per year, must be remitted to the Department by June 30 of that award year. A school may keep up to $250 per year of the interest or investment revenue earned (other than that earned on Perkins Loan funds) to pay for the administrative expense of maintaining an interest-bearing account. However, a school must keep any interest earned on Perkins Loan funds for transfer to the Perkins Loan Fund.

## Exceptions

A school is not required to maintain Direct Loan, Pell Grant, FSEOG, and FWS program funds in a interest-bearing account or an investment account for an award year if:

- the school drew down less than $3 million from these funds in the prior award year and anticipates that it will not draw down more than $3 million in the current award year;
- the school can demonstrate that it would not earn over $250 in interest on the funds it will draw down during the award year; or
- the school requests these funds under the just-in-time payment method.

Schools that request funds under the just-in-time payment method are exempt because this method would ensure the expeditious accounting for and disbursement of program funds. Therefore, little or no interest would be earned on funds provided to the school.

## Federal Perkins Loan Program participants

A school that participates in the Perkins Loan Program must always maintain an interest-bearing account or an investment account for Perkins Loan funds. If a school is also required to maintain an interest-bearing account or investment account for other federal funds, the school may use one account for Perkins Loan funds and all other federal funds. However, if the school chooses to maintain one account, it must determine the exact amount of any interest earned on the Perkins Loan funds for transfer to the Perkins Loan Fund.

### *Accounting and financial requirements*

If a school is not required and does not choose to maintain separate accounts, it must maintain accounting and internal control systems that:

- identify the balance of the funds of each SFA program that are included in the school's bank or investment account as readily as if those funds were in a separate account; and
- identify earnings on SFA program funds in the school's bank or investment account.

A school must maintain its financial records in accordance with the recordkeeping requirements of 34 CFR 668.24 (see chapter 8).

## DISBURSING FUNDS

**Disbursing Funds Cite**
*34 CFR 668.164*

These disbursing requirements apply to all the SFA programs specified at the beginning of this chapter, except for the FWS Program. In paying a student his or her wages under the FWS

Program, a school must follow the disbursement procedures in 34 CFR 675.16 (see *Volume 6 — Federal Work-Study Program*).

## Definition of disbursed

SFA program funds are disbursed when a school credits a student's account with the funds or pays a student or parent directly with:

- SFA program funds received from the Department,
- FFEL funds received from a lender, or
- institutional funds labeled as SFA program funds in advance of receiving actual SFA program funds (except in the instances noted below).

It is important to distinguish when SFA program funds have been disbursed for a number of reasons. To begin with, once SFA program funds have been disbursed, a student becomes an SFA recipient and the rights and responsibilities of an SFA recipient are in effect. For example, if the student is an SFA loan recipient, he or she assumes responsibility for the loan (and all interest accruing on the loan if it is unsubsidized), and has the right to cancel the loan. In addition, knowing when an SFA disbursement occurs will allow a school to determine when it must comply with regulatory requirements related to disbursements and other cash management issues.

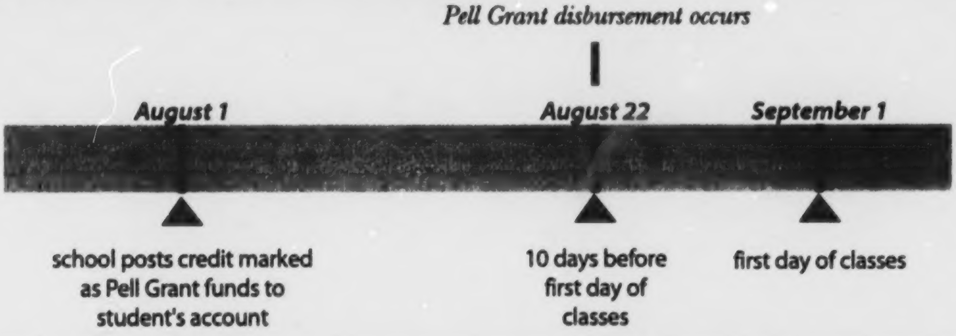
**This definition of *disbursed* makes clear that any funds labeled as SFA program funds are SFA program funds.**

### Exceptions

Because of other SFA program requirements, there are two instances when crediting institutional funds labeled as SFA program funds to a student's account in advance of receiving the actual SFA program funds will not result immediately in an SFA disbursement:

- If a school credits a student's account with the institutional funds in advance of receiving SFA program funds earlier than 10 days before the first day of classes of a payment period, the SFA disbursement does not occur until the tenth day before the first day of classes (see the example below). This provision corresponds to the *Early disbursement* requirements discussed later in this chapter.
- For a student whose loan funds are subject to the 30-day disbursement delay, if a school credits the student's account with institutional funds in advance of receiving SFA program funds earlier than 30 days after the first day of the payment period, the SFA loan disbursement does not occur until the 30th day after the beginning of the payment period.

## Advance Credit to Account Example


*Pell Grant disbursement occurs*
August 1
August 22
September 1
school posts credit marked as Pell Grant funds to student's account
10 days before first day of classes
first day of classes

Note: If a school simply makes a memo entry for billing purposes or credits a student's account and does not identify it as an SFA credit (for example, an *estimated Federal Pell Grant*), the disbursement does not occur until the posting is subsequently converted to an actual credit. If the posting is never converted to an actual credit, it never becomes an SFA program disbursement.

### Disbursement by crediting a student's account

When a school disburses SFA program funds to a student by crediting a student's account, it may only do so for allowable charges. Funds in excess of the allowable charges must be paid directly to the student, unless otherwise authorized *in writing* by the student. (An exception is discussed under *Prior year charges* later in this chapter.)

### Allowable charges

Allowable charges are:

- current charges for tuition and fees (as defined in section 472 of the Higher Education Act of 1965, as amended [HEA]), room and board (if the student contracts with the school), and
- other current charges that a student incurs for educationally related activities, if the school obtains the student's or parent's *written authorization* to have such charges credited with SFA Program funds.

**If a charge does not meet the definition of tuition and fees in Section 472 of the HEA (with the exception of contracted room and board charges), the school must obtain the student's permission (or parent's, if applicable) to credit the student's account with SFA program funds for the charges.**

## Disbursing SFA funds directly

In addition to crediting a student's account, SFA program funds may be disbursed directly to a student or parent. A school may disburse funds *directly* by one of four methods:

- releasing a check provided to the school by a FFEL program lender to the student or parent;
- issuing a check or other instrument payable to and requiring the endorsement or certification of the student or parent (a check is issued if the school releases or mails the check to a student or parent, or notifies the student or parent that the check is available for immediate pickup);
- initiating an electronic funds transfer (EFT) to a bank account designated by the student or parent; and
- paying the student in cash, provided that the school obtains a signed receipt from the student or parent.

A parent borrower of PLUS Loan funds may (in writing) authorize the school to transfer the proceeds of a PLUS Loan to a bank account in the student's name.

**Direct Payments Cite**
*34 CFR 668.164(c)*

The law requires a school that disburses Direct Loans to student accounts to first use Direct Loan funds to pay for outstanding allowable charges. This does not mean that Direct Loan funds must be credited to a student's account prior to other funds. The law simply requires that if there is any outstanding balance for current or authorized charges on the student's account when Direct Loan funds are disbursed, the Direct Loan funds must be applied to those outstanding charges before any Direct Loan funds may be disbursed directly to the borrower.

**Applying Direct Loan Funds Cite**
*CFR 34 668.164(d)(3)*

## DISBURSEMENT BY PAYMENT PERIOD

Schools must disburse all SFA program funds (except FWS) on a payment period basis. (For more information on the definition of a *payment period*, see chapter 2.) However, disbursement requirements vary by program. For information on the specific effects of the payment period disbursement requirement on disbursement of funds under a particular SFA program, please see the applicable Handbook chapter.

**Disbursement by Payment Period Cite**
*34 CFR 668.164(b)*

*Sec. 428G(a)*

Under certain circumstances the Amendments of 1998 provide exemptions from multiple disbursement requirements and the 30-day delay requirements to schools with low default rates . For more information, see *Volume 8 — Direct Loans and FFEL Programs.*

Unless a student is eligible to receive a late disbursement of SFA program funds, a school may disburse SFA program funds to a student or parent for a payment period only if the student is enrolled for classes for that payment period and is eligible to receive those funds.

### *Excused absences*

An excused absence (an absence that does not have to be made up) may be counted as a completed clock hour under certain circumstances. For a student enrolled in a program measured in clock hours, the school may include clock hours for which the student has an excused absence in determining whether the student completes the clock hours in the payment period if:

- the school has a written policy that permits excused absences; and
- for SFA purposes, the number of excused absences under the policy does not exceed the lesser of
    a) the policy on excused absences of the school's designated accrediting agency,
    b) the policy on excused absences of any state agency that legally authorizes the school to operate, or
    c) 10% of the clock hours in the payment period.

An excused absence may only be counted if the student is excused from hours that were actually scheduled, were missed, and are not to be made up.

## EARLY DISBURSEMENTS

**Early Disbursements Cite**
*34 CFR 668.164(f)*

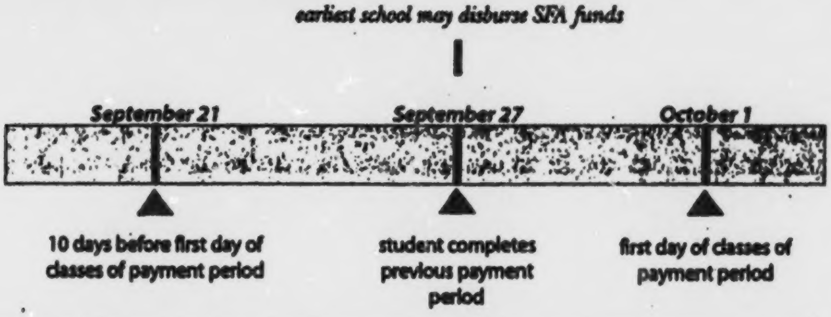
The earliest a school may disburse SFA program funds is

- for a student enrolled in a credit-hour program offered in semester, trimester, or quarter academic terms, 10 days before the first day of classes for a payment period;
- for a student enrolled in a clock hour program or a credit-hour program that is not offered in semester, trimester, or quarter academic terms, the later of 10 days before the first day of classes for the payment period, or the date the student completed the previous payment period for which he or she received SFA program funds (see the example below).

This provision generally applies only to the first disbursement of an FFEL or Direct Loan. (This requirement is applicable to any payment period beginning on or after July 1, 1997.)

If a student is in the first year of an undergraduate program and is a first-time borrower under the FFEL or Direct Loan program, a school may not disburse the first installment of his or her loan until 30 days after the student's first day of classes.

### Early Disbursement Example


earliest school may disburse SFA funds
September 21
September 27
October 1
10 days before first day of classes of payment period
student completes previous payment period
first day of classes of payment period

## LATE DISBURSEMENTS

A student who withdraws or otherwise ceases attendance has lost SFA eligibility and generally may not be paid further funds for the enrollment period. However, a late disbursement of SFA program funds may be made to an ineligible student if the student became ineligible only because:

**Late Disbursements Cite**
*34 CFR 668.164(g)*

- for purposes of the Direct Loan and FFEL programs, the student is no longer enrolled at the school as at least a half-time student for the loan period; and
- for purposes of the Pell Grant, FSEOG, and Perkins Loan programs, the student is no longer enrolled at the school for the award year.

In addition, other conditions must be met depending on the SFA program from which the late disbursement is to be made. The following chart lists these conditions:

A school may make the late disbursement only if the funds are used to pay for unpaid educational costs that the school determines the student incurred for the period in which the student was enrolled and eligible. A school is not required to obtain detailed expenditure documentation from the student. Instead, the school may develop a policy that it applies in all cases. For example, a school may adopt a policy that all expenses for books and supplies are considered to have been incurred by a student who withdraws after the first two weeks of the term (provided that this policy does not conflict with any applicable refund requirements).

The school must make the late disbursement to the student no later than 90 days after the date the student becomes ineligible. For an FFEL, this means that the funds would have to be disbursed to the school by the lender to provide sufficient time for the school to disburse the funds to the student within 90 days.

## Late Disbursements

| Program | A late disbursement may be made if, before the date the student becomes ineligible... | | |
|---|---|---|---|
| *Direct Loans** | SAR or ISIR with official EFC is received (all programs) | electronic origination record is created | For a first-year, first-time borrower, student completed first 30 days of program |
| *FFEL Loans** | | loan application is certified | |
| *Pell* | | Valid SAR or ISIR is received | |
| *SEOG* | | Student is awarded grant | |
| *Perkins* | | Student is awarded loan | |

**A school may not make a late second or subsequent disbursement of a Direct Subsidized or Direct Unsubsidized loan, or a FFEL Stafford Loan, unless the student has graduated or successfully completed the period of enrollment for which the loan was intended.*

The term *post-withdrawal disbursement* was created as a result of the negotiated rule making process of the Higher Education Amendments of 1998. A post-withdrawal disbursement is an amount of Title IV aid that a student has earned by virtue of the Return of Title IV Funds calculation, but that was not disbursed before the student withdrew. It is integral to the new Return of Title IV Funds concept. A post-withdrawal disbursement is not the same as a *late disbursement*, but it must meet the conditions established for a late disbursement. See additional comments and summaries in the chapter 6.

## SFA CREDIT BALANCES

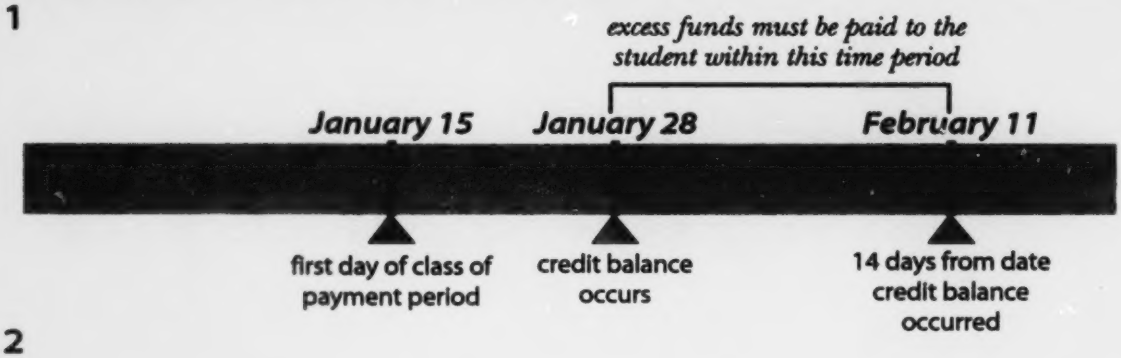
**Credit Balances Cite**
*34 CFR 668.164(e)*

Whenever a school credits SFA program funds to a student's account, and those funds exceed the student's allowable charges, an SFA credit balance occurs. A school must pay the excess SFA program funds (the credit balance) directly to the student as soon as possible, but no later than 14 days after the later of:

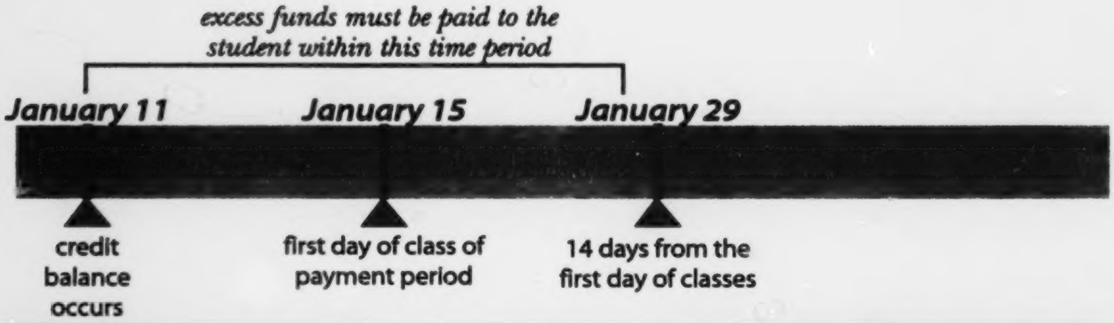
- the date the balance occurred on the student's account, if the balance occurred after the first day of class of a payment period (see *Example 1*); or
- the first day of classes of the payment period if the credit balance occurred on or before the first day of class of that payment period (see *Example 2*).

## Payment of a Credit Balance Example

1


excess funds must be paid to the student within this time period
January 15
January 28
February 11
first day of class of payment period
credit balance occurs
14 days from date credit balance occurred

2


excess funds must be paid to the student within this time period
January 11
January 15
January 29
credit balance occurs
first day of class of payment period
14 days from the first day of classes

**An *SFA credit balance* occurs only if the total amount of SFA program funds exceeds allowable charges.** For example, if a student's total allowable charges are $1,500, and credits to the student's account comprise $1,000 in FSEOG, $500 in state aid funds, and $500 in Pell Grant funds, although there is an excess of $500 on the account, an SFA credit balance would not exist. This is because the total amount of SFA program funds ($1,500) does not by itself exceed the amount of allowable charges ($1,500). If, in this example, the amount of Pell Grant funds credited to the student's account was $600 rather than $500, an SFA credit balance of $100 would exist: $100 is the amount by which the total SFA program funds credited to the account ($1,600) would exceed the allowable charges ($1,500). The order in which these funds were credited does not matter.

**Fees Prohibited**

*Schools are prohibited from charging students a fee for delivering Title IV SFA funds. If a school delivers SFA funds to students by crediting funds to a school issued debit or smart card, the school may not charge students a fee for making withdrawals of SFA program funds from that card.*

The law requires that any excess PLUS Loan funds be returned to the parent. Therefore, if a school determines that PLUS Loan funds created a credit balance, the credit balance would have to be given to the parent. At this time, the Department does not specify how a school must determine which SFA program funds create an SFA credit balance, except to say that Direct Loan funds must be applied to unpaid institutional charges before they can be applied to other charges or disbursed to the student.

The Department does not address the treatment of credit balances that are created by non-SFA program funds. **Previously**, under the SFA refund requirements, when a student withdrew, all credit balances had to be eliminated before a refund calculation was performed. For information on the treatment of a credit balances under the new return to Title IV funds requirement when a student withdraws, see chapter 6.

### Holding credit balances

A school is permitted to hold excess funds (credit balances) if it obtains a voluntary authorization from the student or parent. If a school receives authorization to hold excess funds, the school must identify the student or parent and the amount of funds the school holds for the student or parent in a subsidiary ledger account designated for that purpose. The school also must maintain, at all times, cash in its bank account at least equal to the amount the school holds for students. Because SFA program funds are awarded to students to pay current year charges, notwithstanding any authorization obtained by a school from a student or parent, the school must pay

- any remaining balance on loan funds by the end of the loan period, and

- any other remaining SFA program funds by the end of the last payment period in the award year for which they were awarded.

If a school cannot locate a student to whom an SFA credit balance must be paid (i.e., the school has exhausted all possible avenues to find the student), the school must return the credit balance to the Department. In this case, a school will have to determine which SFA program funds created a credit balance before it can return funds to the SFA programs. As mentioned previously, the Department does not specify how a school must determine which SFA funds create a credit balance. However, when possible, the Department encourages schools to return SFA program funds to loan programs first to reduce the likelihood of default.

The school is permitted to retain any interest earned on the student's credit balance funds. The Department may prohibit a school that has been placed on reimbursement from holding excess funds. If the Department determines that the school has failed to meet the financial responsibility standards, a limitation may be placed on the school preventing it from holding excess funds for any student.

## PRIOR-YEAR CHARGES

**Prior-year Charges Cite**
*34 CFR 668.164(d)*

In general, SFA program funds are allowed to be used to pay only for educational expenses a student incurs in the period for which those funds are provided. However, a school is permitted to use a student's SFA program funds to pay minor prior-year institutional charges if the student has, or will have, an SFA credit balance and the school obtains the student's or parent's authorization to pay the prior-year charges.

A school may obtain authorization from a student in advance to use SFA program funds to cover prior-year charges that are less than

$100. Before paying prior-year charges for amounts equal to or greater than $100, in addition to obtaining an authorization, a school must determine that payment would not prevent the student from paying for his or her current educational expenses (including both institutional charges and noninstitutional costs of attendance).

## REQUIRED SCHOOL NOTIFICATIONS

Before a school disburses SFA program funds for any award year, the school must notify a student of the amount of SFA program funds the student and his or her parent can expect to receive from each SFA program, and how and when those funds will be disbursed. If those funds include Direct Loan or FFEL program funds, the notice must indicate which funds are from subsidized loans and which are from unsubsidized loans.

**Required School Notifications Cite**
*34 CFR 668.165*

A school must provide the best information it has regarding the amount of SFA program funds a student can expect to receive. Because the actual loan disbursements received by a student may differ slightly from the amount expected by the school (due to loan fees and rounding differences), a school may include the gross amount of the loan disbursement or a close approximation of the net disbursement amount.

### *Opportunity for loan cancellation*

Because incurring a loan obligation is a serious responsibility, a borrower must be given the opportunity to cancel the loan at or close to the time the funds are actually disbursed and the debt incurred. Notification of when a loan disbursement occurs and the right to cancel is required to remind borrowers of their loan obligation and to give students the opportunity to replace credited loan proceeds with other funds. Therefore, the school must notify a student or parent in writing or electronically whenever the school credits the student's account with Direct Loan, FFEL, or Perkins Loan program funds. The notification must include

- the date and amount of the disbursement;
- the right of the student or parent borrower to cancel all or a portion of the loan (this is applicable to FFEL program funds only if the school received the loan funds from a lender through EFT payment or master check); and
- the procedures and the time by which the student or parent borrower must notify the school that he or she wishes to cancel the loan or a portion of the loan.

A school is not required to provide notification of cancellation rights if the school disburses an FFEL directly to the student or parent by check. This is because a student or parent who receives an FFEL disbursement via check has the opportunity to refuse the funds by not endorsing the check or by returning it.

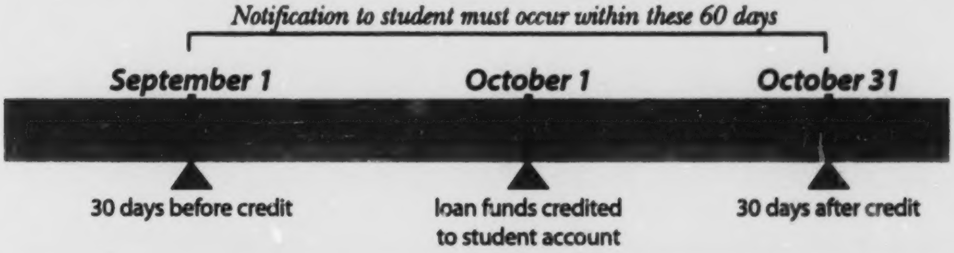
**Electronic Notification Cite**
*668.165(a)(3)(ii)*

New

Recent changes permit a school to notify a borrower that it is crediting a borrower's account via electronic means. The school must confirm receipt of the electronic notice and must maintain documentation of that confirmation. For example, if a school notifies a borrower through electronic mail, the school must request a *return receipt* message and keep a copy of the receipt on file.

This notification of crediting a student's account with loan funds must be sent no earlier than 30 days before and no later than 30 days after crediting the student's account (see example below).

## Notification When Credit to Account Example


*Notification to student must occur within these 60 days*
*September 1*
*October 1*
*October 31*
30 days before credit
loan funds credited to student account
30 days after credit

A school may not use an in-person or telephonic conversation as the sole means of notification. In-person and telephonic conversations are not adequate and verifiable methods of providing notice. However, notification to borrowers in-person and by telephone may be done in addition to providing written or electronic notice.

Once the school has provided notification, if the student or parent wishes to cancel all or a portion of a loan, he or she must inform the school. The school must honor the request if the request is received no later than

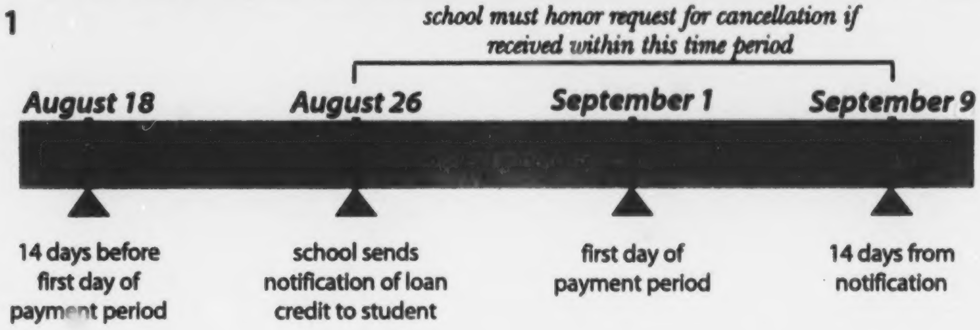
- 14 days after the date the school sends the notice (see *Example 1* below); or
- the first day of the payment period, if the school sends the notice more than 14 days before the first day of the payment period (see *Example 2* below).

If a student's or parent's request for cancellation is received within the specified time period, the school must return the loan proceeds and/or cancel the loan as appropriate. If a student's or parent's request for cancellation is received after the specified time period, the school may, but is not required to, honor the request. **Regardless of when the request is received, the school must inform the student or parent, in writing or electronically, of the outcome of the request.**

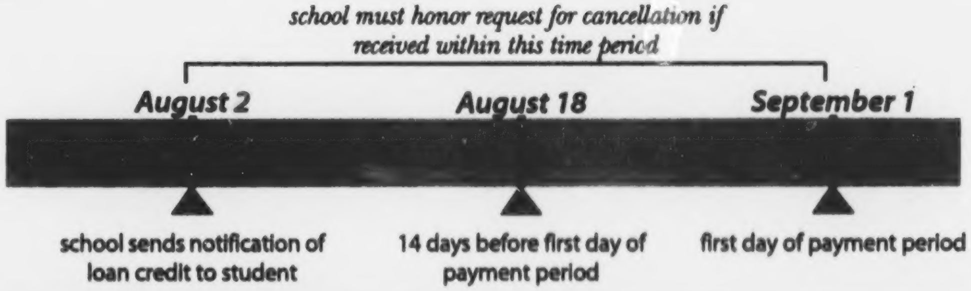
A school is not responsible for returning any portion of a loan that was disbursed to a student or parent directly before the request for cancellation was received. However, a school is encouraged to take an active role in advising the borrower to return the funds already received.

## 14 Day Cancellation Period Example

1


school must honor request for cancellation if received within this time period
August 18
August 26
September 1
September 9
14 days before first day of payment period
school sends notification of loan credit to student
first day of payment period
14 days from notification

2


school must honor request for cancellation if received within this time period
August 2
August 18
September 1
school sends notification of loan credit to student
14 days before first day of payment period
first day of payment period

## REQUIRED STUDENT AUTHORIZATIONS

**Required Student Authorizations Cite**
*34 CFR 668.165*

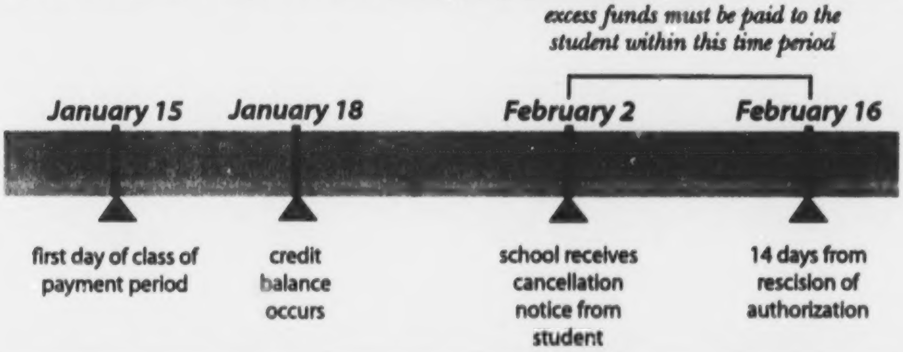
As discussed previously in this chapter, a school must obtain authorization from a student (or parent borrower) before

- disbursing SFA program funds (including Federal Work-Study) by EFT to a bank account designated by the student or parent,
- using SFA program funds (including Federal Work-Study) to pay for allowable charges other than tuition, fees, and room and board (if the student contracts with the school),
- holding excess SFA program funds (credit balances), and
- applying SFA program funds to prior-year charges.

In obtaining an authorization from a student or parent, a school may not require or coerce the authorization and must notify the student or parent that he or she may cancel or modify the authorization at any time. Once a student or parent cancels or modifies his or her authorization, the school may not perform the function, or must perform the function as modified, from that date forward.

A cancellation or modification is not retroactive. If a student or parent cancels an authorization to use SFA program funds to pay for allowable charges other than tuition, fees, and room and board (if the student contracts with the school), or prior-year charges, the school may use SFA program funds to pay any authorized charges incurred by the student before the notice was received by the school. If a student or parent cancels an authorization to hold excess funds, the funds must be paid directly to the student or parent as soon as possible, but no later than 14 days after the school receives the notice (see example below).

### Payment After Cancel Authorization Example


*excess funds must be paid to the student within this time period*
January 15
January 18
February 2
February 16
first day of class of payment period
credit balance occurs
school receives cancellation notice from student
14 days from rescision of authorization

A school may include two or more of the items that require authorization on one statement. Each component and term on the authorization must be conspicuous to the reader, and a student (or parent borrower) must be informed that he or she may refuse to authorize any individual item on the statement.

An authorization must clearly explain how the school will carry out an activity, but it does not need to detail every aspect pertaining to the activity. However, a blanket authorization that only identifies the activities to be performed is not acceptable. An authorization permitting a school to use excess SFA program funds must provide detail that is sufficient to give the student or parent a general idea of what the excess funds would be used to pay. A blanket statement that excess funds would cover any charges is not acceptable.

Unless otherwise specified, a student or parent may authorize a school to carry out the activities for which authorization is provided for the entire period that the student is enrolled at the school. As mentioned above, a student or parent may cancel or modify an authorization at any time.

## EXCESS CASH

**Excess Cash Cite**
*34 CFR 668.166*

As mentioned in the discussion of the advanced payment method, a school must disburse funds no later than three business days following the date the school receives them. *Excess cash* is any amount of SFA program funds, other than funds received under the just-in-time payment method (see the discussion under the *Just-in-time payment method* earlier in this chapter), that a school does not disburse to students by the end of the third business day. Excess cash must be returned to the Department immediately. However, sometimes a school is prevented from disbursing funds in the required three days because of circumstances outside the school's control. For example, a school may not have been able to disburse funds because of a change in a student's enrollment status, a student's failure to attend classes as scheduled, or a change in a student's award as a result of verification. To take these circumstances into account, under the following circumstances, a school may maintain an excess cash balance for up to seven additional days.

### *Allowable excess cash tolerances*

If during a period of peak enrollment a drawdown of excess cash occurs, a school can maintain the excess cash balance in its federal account if the excess cash balance is less than 3% of the school's total prior-year drawdowns. The school is required to eliminate the excess cash balance within the next seven days by disbursing SFA program funds to students for at least the amount of that excess cash balance.

A period of peak enrollment at a school occurs when at least 25% of the school's students start classes during a given 30-day period. A school determines this percentage for an award year with the following fraction:

$$\frac{\text{Number of students who started classes in the comparable 30-day period in the prior award year}}{\text{Total number of students who started classes during the entire prior award year}}$$

For any period other than a period of peak enrollment, the school can maintain the excess cash balance if the excess cash balance is less than 1% of the school's prior-year drawdowns. In this case also, the school is required to eliminate the excess cash balance within the next seven days by disbursing SFA program funds to students for at least the amount of that balance.

Consider a school that did not participate in the Direct Loan Program during the prior year. Such a school does not have prior-year drawdown data. To arrive at an amount to use for prior-year drawdowns, the school should use the total amount of loans guaranteed under the FFEL Program for students attending the school during the prior year .

The Department reviews schools to determine where excess cash balances have been improperly maintained. The Department will seek to recover from those schools the resulting losses to the government.

Upon a finding that a school has maintained an excess cash balance in excess of allowable tolerances, a school is required to reimburse the Department for the costs that the government incurred in making those excess funds available to the school. Where excess cash balances are disproportionately large considering the size of the school or where they represent a continuing problem with the school's ability to responsibly administer the SFA programs, the Department may initiate a proceeding to fine, limit, suspend, or terminate the school's participation in one or more of the SFA programs. For more on fines and other actions against schools, see chapter 11.

Generally, a check is *issued* when the school releases, distributes, or makes available the check by mailing the check to the student or parent, or by notifying the student or parent expeditiously that the check is available for immediate pickup. However, upon a finding that a school has maintained excess cash balances, the Department considers the school to have issued a check on the date that check cleared the school's bank account, unless the school demonstrates to the satisfaction of the Department that it issued the check to the student shortly after the school wrote that check.

Finally, the Department will assess a school that maintains excess cash balances a liability that is equal to the difference between the earnings those cash balances would have yielded under a Treasury-derived rate and the actual interest earned on those cash balances.

CHAPTER 6

# Return of Title IV Funds

## WITHDRAWALS*

This chapter explains how Title IV funds are handled when a recipient of those funds ceases to be enrolled prior to the end of the term.

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) substantially changed the way funds paid toward a student's education are handled when a recipient of Title IV funds withdraws from school. All schools were required to implement these provisions by October 7, 2000.

The old provisions required schools participating in the Title IV programs to use specific refund policies when a Title IV funds recipient withdrew. The school determined the amount of institutional charges it earned, the unearned amount, and the amount that had to be refunded. In addition, the old provisions specified an order of return of unearned funds from all sources of aid, not just the Title IV programs.

The new requirements do not dictate an institutional refund policy. Instead, a statutory schedule is used to determine the amount of Title IV funds a student has earned as of the date he or she ceases attendance. The amount of Title IV program assistance earned is based on the amount of time the student spent in academic attendance; it has no relationship to the student's incurred institutional charges. Because these requirements deal only with Title IV funds, the order of return of unearned funds no longer includes funds from sources other than the Title IV programs.

Up **through the 60% point** in each payment period or period of enrollment, a pro rata schedule is used to determine the amount of

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* Although elsewhere the Handbook refers to the *SFA programs*, rather than the *Title IV programs*, which is the term used in the law, this Chapter will use the term Title IV programs to make it easier to use with the worksheets for the Treatment of Title IV Funds When A Student Withdraws.

Title IV funds the student has earned at the time of withdrawal. **After the 60% point** in the payment period or period of enrollment, a student has earned 100% of the Title IV funds.

**Clarification**

The new requirements do not prohibit a school from developing its own refund policy or complying with refund policies required by state or other outside agencies. Although an institutional, state or agency refund policy will determine the charges a student will owe after withdrawing, those policies will not affect the amount of aid the student has earned under the return calculation.

Schools are still required to provide students with the details of all refund policies applicable at the institution as well as information on the Title IV program requirements for determining the amount of Title IV funds a student has earned when he or she withdraws.

## Worksheets

The Department developed worksheets to assist schools in their implementation the final regulations (you can find blank worksheets at the end of this chapter). There is one worksheet for students who withdraw from credit-hour programs and one for students who withdraw from clock-hour programs. These worksheets are available at the end of this chapter and in portable document file (PDF) format on the Department's *Information for Financial Aid Professionals* Web site at

http://ifap.ed.gov

This chapter will discuss the general requirements for the treatment of Title IV funds when a student withdraws and will then follow the steps in the worksheets.

**Technical Questions**
*Technical questions on the return to Title IV funds software are handled by the CPS at 800-330-5947, option 9, or via e-mail at CPS@NCS.COM.*

The Department has also developed Return of Title IV Aid software that automates the return calculation. The software can be downloaded from ED's SFA download site

http://wwwsfadownload.ed.gov

The use of the Department's worksheets and the software is optional; schools are not required to use either for the determination of the treatment of Title IV funds when a student withdraws.

## General requirements

If a recipient of SFA grant or loan funds withdraws from a school after beginning attendance, the amount of SFA grant or loan assistance earned by the student must be determined. If the amount disbursed to the student is greater than the amount the student earned, unearned funds must be returned. If the amount disbursed to the student is less than the amount the student earned, and for which the student is otherwise eligible, he or she is eligible to receive a post-withdrawal disbursement of the earned aid that was not received.

The change to the law makes clear that Title IV funds are awarded to a student under the assumption that the student will attend school for the entire period for which the assistance is awarded. When a student withdraws, the student may no longer be eligible for the full amount of Title IV funds that the student was originally scheduled to receive.

## *Verification*

**Clarification**

The return calculations impose no additional liability for interim disbursements made to students selected for verification. However, the return requirements do place limits on interim disbursements that can be made to students selected for verification who have ceased attendance. A school may not make an interim disbursement to a student after the student has ceased attendance.

Under 34 CFR 668.53(a)(1) an institution must establish a timeframe in which students who withdraw must provide all the verification documents necessary for the institution to make any required **post-withdrawal disbursements** in the time allowed by the return regulations. In order to make post-withdrawal disbursements to students selected for verification, an institution in its policies and procedures manual might have to shorten the number of days it allows for students who withdraw to provide any required verification documents. A student who fails to provide all required verification documents within a timeframe that permits a school to comply with the requirements in CFR 34 668.22 forfeits eligibility for a post-withdrawal disbursement.

In the near future, the Department intends to issue expanded guidance on verification and the return of Title IV funds.

## *Consumer information*

**Consumer Information Cite**
*Section 485(a)(1)(F), 34 CFR 668.43*
*For more information see chart on "Institutional and Financial Assistance Information for Students" at the end of chapter 7.*

A school must make available upon request to prospective and enrolled students a statement of

- any refund policy with which the school must comply,
- the requirements for the treatment of Title IV funds when a student withdraws, and
- the requirements and procedures for officially withdrawing from the school.

Because these new provisions no longer affect institutional refund policies, the school must provide the student with information on both the Title IV requirements and the school's refund requirements. A school should include some discussion of how the Title IV requirements and the school's refund requirements interact, including how the school might adjust a student's charges to take into account repayments of Title IV funds that the school was required to make.

## Foreign schools

Foreign schools participating in the Title IV programs are also subject to the requirements for the treatment of Title IV funds when a student withdraws. The HEA includes a provision that allows lenders to make FFEL program loan disbursements directly to a student who is attending a foreign school. A lender making a direct disbursement to a student attending a foreign school must notify the school that the disbursement was made. This provision was added to the regulations because, as a result of direct disbursements, a foreign school would not necessarily know that a student had received a disbursement and would not be able to properly determine the return of Title IV funds if the student withdrew. As part of the notification, the lender must provide the information necessary for the school to determine the amount of Title IV funds that the student has earned if the student withdraws. This information is:

- the name and social security number of the student;
- the name and social security number of the parent borrower, if the loan disbursed is a PLUS loan;
- the type of loan;
- the amount of the disbursement, including the amount of any fees assessed the borrower;
- the date of the disbursement; and
- the name, address, telephone number, and fax number or electronic address of the lender, servicer, or guaranty agency to which any inquiries should be addressed.

**Lender Notification to Foreign Schools Cite**
*34 CFR 682.207*

## Definition of a Title IV recipient

These requirements for the treatment of Title IV funds when a student withdraws apply to any recipient of SFA grant or loan funds who withdraws. For purposes of these requirements, *a recipient of grant or loan assistance* is a student who has actually received Title IV funds or has met the conditions that entitle the student to a late disbursement. These conditions are listed in a chart on *Late Disbursements* in chapter 5 of this volume.

These requirements apply only to the receipt of or qualification for aid that could be included in the calculation. For example, the requirements of 34 CFR 668.22 do not apply to Federal Work-Study funds. Therefore, a student would not be considered an SFA recipient if the only Title IV program assistance that the student had received or could have received was FWS funds. For more information on the types of Title IV program assistance included in the calculation, see the discussion of *Funds to Include in the Calculation* under Step 1.

Please note that if the student never actually began attendance for the payment period or period of enrollment, 34 CFR 668.22

**Recipient of SFA Grant or Loan Assistance**
*A student for whom the requirements of 668.164(g)(2) have been met.*

does not apply. Likewise, if a student began attendance, but was not and could not have been disbursed Title IV grant or loan funds prior to withdrawal, the student is not considered to have been a Title IV recipient and the requirements of 34 CFR 668.22 do not apply. In these cases, Title IV funds would be handled in accordance with other Title IV regulations (see margin).

**Funds Awarded to Students Who Do Not Begin Training Cites**
*34 CFR 668.21*
*34 CFR 682.604(d)(3) or (4), and*
*34 CFR 685.303(b)(3)*

## Rounding

Monetary amounts are to be reported in dollars and cents using standard rounding rules to round to the nearest penny. Final repayment amounts that the school and student are each responsible to return may be rounded to the nearest dollar.

Percentages are calculated to three decimal places. The third decimal place is rounded up if the fourth decimal place is 5 or above. For example, .4486 would be rounded to .449, or 44.9 percent.

The **one exception** to this rule is in determining of the percentage of Title IV program assistance earned. Students who withdraw at any point **after the 60% point** in the payment period or period of enrollment have earned 100% of their Title IV funds. If the standard rounding rules were used in this situation, a quotient of .6001 through .6004, which is greater than 60%, would be rounded down to .600 (60%). Therefore, to recognize that students completing more than 60% of the period (by any amount) earn 100% of their Title IV program assistance, **amounts of .6001 through .6004 are not rounded** for the purpose of determining whether a student has earned 100% of the Title IV funds for the term.

*From this point on, this chapter will discuss issues in the order in which they occur on the worksheets.*

## Date of the institution's determination that the student withdrew

Some aspects of the withdrawal process cannot occur until the school is aware that the student has withdrawn. For example, a school cannot be expected to return Title IV funds for a withdrawn student unless the school knows that the student is no longer in attendance. The *date of the institution's determination that the student withdrew* captures the point in time when a school could reasonably be expected to be aware that a student has withdrawn.

The *date of the institution's determination that the student withdrew* varies depending on the type of withdrawal. For example, if a student begins the official withdrawal process or provides official notification to the school of his or her intent to withdraw, the *date of the institution's determination that the student withdrew* would be the student's withdrawal date or the date of the student's notification, whichever is later. If a student did not begin the official withdrawal process or provide notification of his or her intent to withdraw, the date of the institution's determination that the student withdrew would be the date that the school becomes aware that the had student ceased attendance. The types of withdrawal and the corresponding definition of the date of the institution's determination that the student withdrew are listed in the chart on *Withdrawal Dates* at the end of this chapter.

**Note:** For a student who withdraws without providing notification to the school, the school must determine the withdrawal date **no later than 30 days after the end of the earlier** of (1) the payment period or the period of enrollment (as applicable), (2) the academic year, or (3) the student's educational program.

As noted above, the *date of the institution's determination that the student withdrew* is not necessarily the same as a student's withdrawal date. A student's withdrawal date is used to determine the percentage of the payment period or period of enrollment completed and, therefore, the amount of aid a student has earned. **The date of the institution's determination that the student withdrew is used in the following circumstances:**

- A school must offer any amount of a post-withdrawal disbursement that is not credited to the student's account within 30 days of the date of determination;
- If the student or parent submits a timely response that instructs the school to make all or a portion of the post-withdrawal disbursement, the school must disburse the funds within 90 days of the date of determination;
- A school must document a student's withdrawal date and maintain the documentation as of the date of determination;
- Within 30 days of the date of determination, a school must notify a student if a grant overpayment is due;
- A school that is collecting an overpayment must require repayment of the full amount of the overpayment within two years of the date of determination;
- The school must return the amount of Title IV funds for which it is responsible no later than 30 days after the date of determination; and
- The amount of aid disbursed as of the date of determination is used to determine the amount of unearned aid that must be returned.

### *Use of payment period or period of enrollment*

The worksheets require that a school indicate whether the calculation is being done on the basis of a payment period or a period of enrollment. For students who withdraw from standard term-based educational programs (semester, trimester, or quarter), a school must determine the treatment of the student's Title IV program assistance on a payment period basis. For students who withdraw from a nonstandard term-based or non-term-based educational program, the school has the choice of determining the treatment of the student's SFA, program assistance on either basis. The institution must use the same basis (payment period or period of enrollment) in its calculations for all students within a program who cease attendance.

An exception is allowed for students who transfer to or reenter a school that offers nonterm-based or a nonstandard term-based educational programs. For students who transfer to or reenter a nonterm-based or a nonstandard term-based educational programs a school may make a separate selection of payment period or period of enrollment to use in calculating their return of funds.

For example, a school using a payment period basis for students who have been in attendance from the beginning of the program may decide to use a period of enrollment basis for transfer and reentry students because these students are more likely to have a short, nonstandard payment period that would have to be completed before their schedules could fit into the standard payment periods at the school. **The periods used for transfer and reentry students do not have to be the same.** A school may choose to use payment period for transfer students and period of enrollment for reentry students.

## *Payment period*

The definition of a payment period is the same definition used for other Title IV program purposes. This definition is found in 34 CFR 668.4 (see chapter 2). Schools that use payment periods as the basis for their return calculations should note that making multiple disbursements within a payment period does **not** create a new or additional payment period.

Clarification

## *Period of enrollment*

For students who withdraw from a nonstandard term-based or non-term-based educational program, the school has the choice of determining the treatment of the student's Title IV program assistance on either a payment period basis or a period of enrollment basis. A school must use the chosen period consistently for all students in the program.

**Period of Enrollment**
*The academic period established by the school for which institutional charges are generally assessed (i.e., length of the student's program or academic year).*

## *Applicability*

The use of payment period or period of enrollment is important for many aspects of the calculation. For example, if a school is determining the treatment of Title IV funds on a payment period basis, the student's Title IV program assistance to be used in the calculation is the aid that is disbursed or that could have been disbursed for the payment period. Also, the institutional charges used in the calculation would have to reflect the charges for the payment period.

Generally the higher the institutional charges, the greater the amount of unearned aid that is to be returned by the school

(Step 4). In some cases this mitigates against a school using the period of enrollment as the basis for the return to Title IV funds calculation. An institution may prorate the charges for the period of enrollment to correspond to a payment period if the institution has elected to use the payment period rather than period of enrollment basis for the return calculations.

Nonterm and nonstandard term schools should carefully examine the demographics of the students who withdraw, choose the basis (payment or enrollment) for the return calculations that best fits its situation, and appropriately adjust its policies and procedures manual.

If for a nonterm or nonstandard term program a school chooses to calculate refunds on a payment period basis, but the school charges for a period longer than a payment period (e.g. period of enrollment), total institutional charges for the period will be the greater of the

- prorated amount of institutional charges or the period, or
- the amount of Title IV assistance retained for institutional charges as of the student's date of withdrawal.

Additional guidance is provided in the discussions that follow.

## *Step 1: Student's Title IV Aid Information*

The worksheet begins by gathering information about the student's Title IV aid grant and loan assistance.

### Funds to include in the calculation

The calculation of earned Title IV program assistance includes all SFA grant and loan funds that were disbursed or that could have been disbursed to a student. Federal Work-Study (FWS) funds are not included in the calculation. In addition, Federal Supplemental Educational Opportunity Grant (FSEOG) program funds and Leveraging Education Assistance Partnership (LEAP) program funds, formerly known as the State Student Incentive Grant (SSIG) program funds, are excluded under certain circumstances.

### FSEOG program funds

The nonfederal share of FSEOG program funds is excluded when a school meets its FSEOG matching share by either the individual recipient method or the aggregate method. If a school meets its matching share requirement through the use of a fund-specific match, 100% of the FSEOG award must be included in the return calculation. Otherwise, the nonfederal share of FSEOG awards is excluded from the calculation. For more information on types of FSEOG matching funds in *Volume 7 – Supplemental Educational Opportunity Grants.*

## LEAP program funds

Funds from the LEAP program must be treated in accordance with the guidance of Dear Colleague Letter GEN-89-38, which addresses the treatment of LEAP funds when a student withdraws. This policy provides that, if a state agency specifically identifies a student's state grant as LEAP funds, the entire amount of the grant must be included in the calculation of earned Title IV funds. If a school does not know whether a particular student's state grant contains LEAP funds, the grant would not have to be included in the calculation.

**Title IV Grant or Loan Funds that Could Have Been Disbursed**
*Determined in accordance with the late disbursement provisions in 34 CFR 668.164(g).*

## Title IV Aid Disbursed

Generally, a student's Title IV funds are disbursed when a school credits a student's account with the funds or pays a student or parent directly with:

- Title IV funds received from the Department,
- FFEL funds received from a lender, or
- institutional funds labeled as Title IV funds in advance of the school receiving actual Title IV funds.

There are a couple of exceptions to this definition. For a complete discussion of the definition of disbursed Title IV funds, see chapter 5.

**A student's aid is counted as *disbursed* for the calculation if it is disbursed as of the date of the institution's determination that the student withdrew.**

A school may not alter the amounts of Title IV grant and loan funds that were disbursed prior to the school's determination that the student withdrew. For example, a school may not replace a withdrawn student's loan funds with grant funds that the student was otherwise eligible to receive before performing the calculation for the treatment of Title IV funds when a student withdraws.

## Title IV Aid that Could Have Been Disbursed

In addition to aid disbursed, aid that could have been disbursed is also used in the calculation. Title IV aid that could have been disbursed is grant or loan funds for which the student meets the conditions for a late disbursement. These conditions are discussed in chapter 5.

A school must calculate the amount of earned Title IV funds by applying a percentage to the total amount of Title IV program assistance that was disbursed or that could have been disbursed. Under Step 1 of the worksheet, a school fills in the amount of each type of Title IV aid that was disbursed or that could have been disbursed. **When entering the amount of loan funds, a school should enter the net amount** disbursed or that could have been disbursed. The determination of which funds were disbursed versus those that

**Plus Loan Denied**
*If an institution uses a PLUS loan in its return calculations and later is informed that the loan was denied by the lender, the institution should revise its return calculation and make the appropriate adjustments to its records and the RFMS system. If the denied PLUS loan was the only Title IV assistance for which the student was eligible, no return calculation would be required.*

could have been disbursed is made as of the date of the school's determination that the student withdrew.

### *Second or subsequent FFEL/DL disbursements*

A second or subsequent FFEL or Direct Loan disbursement is counted as aid that could have been disbursed for purposes of determining earned Title IV aid if the institution would not have been prohibited from making the disbursement on or before the day the student withdrew. **However, a student can never receive as a post-withdrawal disbursement funds made up all or in part by a second or subsequent FFEL or Direct Loan disbursement.**

An institution must include in the return of funds calculation amounts of any second or subsequent disbursement that the institution could legally have made on or before the student withdrew, but did not. Consider a student who completed 500 clock hours in a 900 clock hour program and passed the midpoint in calendar time of the loan period. The loan period is the 900 clock hour academic year. The payment periods are 450 hours each. Half of the Stafford loan was disbursed at the beginning of the first payment period and the student was scheduled to receive the second half in the second payment period. Although the student completed half of the clock hours and passed the midpoint in calendar time of the loan period, and was otherwise eligible to receive the second installment of the loan, the second disbursement of the loan was not disbursed before the student withdrew. Because the institution was not prohibited from making the second disbursement on or before the day the student withdrew, the second disbursement of the loan is included as *aid that could have been disbursed* in the calculation of earned Title IV aid.

However, the late disbursement regulations (34 CFR 668.164(g)(2) prohibit an institution from making a second or subsequent disbursement of a FFEL or Direct Stafford Loan unless the student has graduated or successfully completed the period of enrollment for which the loan was intended. The Return of Title IV Aid requirements, including the post-withdrawal disbursement requirements, do not supercede this provision. **Therefore, although in some circumstances, a second or subsequent FFEL or Direct Loan disbursement is counted as aid that could have been disbursed for purposes of determining earned Title IV aid, the funds may not be disbursed.**

Consider a student who withdraws after completing 350 clock hours in a 900 clock hour program. The loan period is the 900 clock hour academic year. The payment periods are 450 hours each. The institution chooses to disburse the loan in four disbursements. The first quarter of the Stafford loan for the first quarter of the period of enrollment has been disbursed. The student is scheduled to receive the second quarter of the loan in the second half of the first 450 hour payment period. The student withdraws during the first payment period after receiving only the first disbursement of the loan. The third and fourth scheduled disbursements of the loan may not be included in the calculation as aid that could have been disbursed because the student had not completed half of the clock hours in the loan period. The second scheduled disbursement of the loan is included in the calculation as aid that could have been disbursed because the institution was not prohibited from disbursing that amount to the student on or before the day the student withdrew. However, the institution may not make a post-withdrawal disbursement from the second scheduled disbursement of the loan because of the prohibition on making second or subsequent disbursements of FFEL or Direct Stafford loans when a student has ceased attending an institution. **When a student withdraws, no portion of any second or subsequent disbursement may be disbursed to a student as a post-withdrawal disbursement even though the amount of the second or subsequent disbursement is included as aid that could have been disbursed for purposes of determining earned Title IV funds.**

If an institution had received a valid output document prior to or as of the withdrawal date and a Direct or FFEL had been awarded as of or prior to that date, an institution could make an **initial disbursement** of that loan consistent with the provisions of 34 CFR 668.164(a)(2) for late disbursements.

A first-year, first-time borrower who withdraws before the 30th day of his or her program of study at a school that is **not** exempt from the *30-day delay provision* is prohibited from receiving any FFEL or Direct Loan funds at the time he or she withdrew. For such a student, no amount of an FFEL or Direct Loan may be included in the calculation of the treatment of Title IV program assistance.

### *Effects of the 30-day delayed disbursement requirement*

If an institution is exempt from delaying for 30 days the first disbursement of a FFEL/Direct Stafford Loan but chooses to retain the practice anyway, the unmade disbursement is included as aid that could have been disbursed. Such a first disbursement is included because the institution was not prohibited from making the disbursement on or before the day the student withdrew.

If the institution is exempt from the 30-day delayed disbursement requirement but has chosen to delay disbursement, the amount of the initial disbursement may also be used to make a post-withdrawal disbursement because it is the first disbursement of the loan. However, any scheduled second or subsequent disbursements may not be made as post-withdrawal disbursements because, as discussed previously, no portion of a second or subsequent disbursement may ever be disbursed to a student as a post-withdrawal disbursement.

### Late Arriving Aid

If a school is determining the treatment of Title IV funds on a payment period basis, the student's Title IV program assistance used in the calculation is the aid that is disbursed or that could have been disbursed for the payment period during which the student withdrew. (Also, the institutional charges used in the calculation would have to reflect the charges for the payment period.)

If aid that could have been disbursed during a previous payment period (completed by the student) is received in a subsequent period during which the student withdrew, the aid is not considered *Aid Disbursed or Aid That Could Have Been Disbursed* in the period during which the student withdrew. This assistance while it can be disbursed in the current term is attributed to the previous term. Therefore, it would not be included in the return calculation for the period in which the student withdrew.

**Please note that for a student who is has withdrawn, a school cannot disburse aid received for a previous semester unless the student qualifies for a late disbursement.**

## *Step 2: Percentage of Title IV Aid Earned*

The percentage of Title IV aid earned is determined differently for credit-hour program withdrawals and clock-hour program withdrawals. The requirements for determining a student's withdrawal date, however, differ based on whether a school is required to take attendance or not. The withdrawal date is used to determine the point in time that the student withdrew so the percentage of the payment period or period of enrollment completed by the student can be determined. The percentage of Title IV aid earned is equal to the percentage of the payment period or period of enrollment completed.

If the day the student withdrew occurs on or before the student completed 60 percent of the payment period or period of enrollment, the percentage earned is equal to the percentage of the payment period or period of enrollment that was completed. If the day the student withdrew occurs after the student has completed more than 60 percent of the payment period or period of enrollment, the percentage earned is 100 percent.

### Withdrawal Date

This definition of *withdrawal date* is required for Title IV program purposes only—including the withdrawal date that a school must report to a lender if FFEL program funds were received or to the Department if Direct Loan program funds were received. A school may, but is not required to, use these withdrawal dates for its own institutional refund policies.

The definition of *withdrawal date* is for determining the amount of aid a student has earned. Do not confuse it with the *date of the institution's determination that the student withdrew,* discussed previously and used for other purposes in the return calculation.

## *Withdrawal date for a student who withdraws from a school that is required to take attendance.*

If a school is required to take attendance, a student's withdrawal date is the last date of academic attendance as determined by the school from its attendance records. This date is used for all students who cease attendance, including those who do not return from an approved leave of absence or who take an unapproved leave of absence (see the discussion of leaves of absence in chapter 3).

Only a school that is required to take attendance by an outside entity (see below) is considered a school that is required to take attendance for purposes of calculating the amount of Title IV Program assistance earned when a student withdraws. **A school that elects to take attendance, including a school that voluntarily complies with an optional attendance requirement of an outside entity, is not considered a school that is required to take attendance.**

### Attendance Requirements of Outside Entities

Clarification

The goal of the Return of Title IV Aid provisions is to identify the date that most accurately reflects the point when a student ceases academic attendance, not the date that will maximize Title IV aid to the institution or to the student. Generally, the most precise determination of a student's withdrawal date is one that is made from institutional attendance records. **If an institution has such records as the result of the requirements of an outside entity, the institution must use those records for determining a student's withdrawal date.**

Examples of outside agencies that might require a school to take attendance are a school's accrediting agency and a school's state licensing agency. **An institution is required to take attendance if any requirements of an outside entity result in the institution having to take attendance, even if attendance taking is not directly required, and even if the outside entity states that the institution is not required to take attendance.**

In other words, if the only way an institution can comply with a requirement of an outside entity is to take attendance, the institution is considered to be an institution that is required to take attendance for return of Title IV Aid purposes. If a school's accrediting agency requires a school to monitor the withdrawal date of its students and the only way that an institution could comply with that is for the institution to take attendance, then the institution meets the definition of an institution required to take attendance. The Department would consider such an institution to be one required to take attendance even though the accrediting agency did not use words that specifically stated that the institution is required to take attendance. This would be true even if the accrediting agency specifically stated that the institution is not required to take attendance.

Additional examples are a state agency requiring an institution to refund tuition and fees based on a student's last date of class attendance, and state regulations requiring an institution to drop a student if the student misses more than a certain number of days or hours in a term. In both instances, the only way a school could comply with the state regulations is by taking attendance. Therefore, in both instances schools covered by the state regulations would be considered schools that are required to take attendance for purposes of the return of Title IV Aid requirements. This would be true even if the agency stated that it does not require institutions to take attendance. If a school is required by an outside entity (for example, a state Workforce Development Agency), to take attendance for only some students, the school is required use those attendance records for only the cohort of students under the outside agencies jurisdiction to determine the student's withdrawal date (the last date of academic attendance). The school would not be required to take attendance for any of its other students, or to use attendance records to determine any of its other students' withdrawal dates, unless the school is required to take attendance for those students by another outside entity.

For example, 10 students at Peabody University receive assistance from the state. The state requires the school to take attendance for the recipients of the state's education benefits. Peabody University is not required by any other outside entity to take attendance for any of its other students. Seven of the 10 students who receive state benefits are also Title IV program recipients. If any of those seven students withdraw from the school, the school must use the state required attendance records for those students to determine the withdrawal date as required for institutions required to take attendance. For all other Title IV program recipients at Peabody University who withdraw, the school must determine the withdrawal date in accordance with the requirements for students who withdraw from a school that is not required to take attendance.

## Documentation

A school must document a student's withdrawal date and maintain that documentation as of the date of the institution's determination that the student withdrew. If a school is required to take attendance, it is up to school to ensure that accurate attendance records are kept for purposes of identifying a student's last date of academic attendance. A school must also determine which attendance records most accurately support its determination of a student's withdrawal date and the school's use of one date over another if the school has conflicting information.

## *Determining a student's withdrawal date at a school that is not required to take attendance*

If a school is not required to take attendance, the determination of a withdrawal date varies with the type of withdrawal. The chart on Withdrawal Dates at the end of this chapter lists the withdrawal date for the various types of withdrawals, as well as the date of the institution's determination that the student withdrew for each type of withdrawal.

### Official Notification

A student may provide official notification of his or her intent to withdraw by following the school's withdrawal process. In this case, the withdrawal date is the date the student begins the school's withdrawal process. A student may also provide official notification in other ways. If a student otherwise provides official notification (as explained below), the withdrawal date is the date notification was provided. If a student both begins the school's withdrawal process and otherwise provides official notification orally or in writing of his or her intent to withdraw, the earlier of the two withdrawal dates is the withdrawal date, that must be used for purposes of this calculation.

These withdrawal dates apply even if a student begins the school's withdrawal process or otherwise notifies the school of his or her intent to withdraw and projects a future last date of attendance. For example, if on May 5 a student provided notification of his intent to cease attending the school beginning on May 10, the withdrawal date is May 5. **A school that is not required to take attendance may always use a last date of attendance at an academically-related activity as a student's withdrawal date** (this is discussed in detail below). Therefore, the school may use May 10 as the student's withdrawal date if the institution documents that date as the student's last date of attendance at an academically related activity.

Likewise, a school could use an earlier last documented date of attendance at an academically related activity if this date more accurately reflects the student's withdrawal date than the date the student begins the school's withdrawal process or notifies the school of his or her intent to withdraw.

These requirements for the treatment of Title IV funds do not apply to a student who does not actually cease attendance at the school. For example, when a student reduces his or her course load from 12 credits to 9 credits, the reduction represents a change in status not a withdrawal. Therefore, no return calculation is required.

## School's withdrawal process

Again, for a student who provides official notification of his or her intent to withdraw by following the school's withdrawal process, the withdrawal date is the date the student begins the school's withdrawal process. **The beginning of the school's withdrawal process must be defined.** The individual definition is left up to the school. **Schools are required to make available to students a statement specifying the requirements for officially withdrawing from the school.** The school is expected to identify the beginning of its process as a part of this information (see chapter 7). A school should be able to demonstrate consistent application of its withdrawal process, including its determination of the beginning of that process.

The distinction is that while the institution's officially defined withdrawal process might include a number of required steps, and though the institution might not recognize the student's withdrawal (for purposes of determining an institutional refund) until the student has completed all the required steps, for the purpose of calculating the return of Title IV funds, the date the student began the institution's withdrawal process is the withdrawal date or Title IV purposes.

## Otherwise provides official notification

Official notification to the school occurs when a student notifies an office designated by the school of his or her intent to withdraw. In its written description of its withdrawal procedures a school must designate at least one office for this purpose. For example, a school could designate a dean's, registrar's, or financial aid office. If a student provides notification to an employee of that office while that person is acting in his or her official capacity, the student has provided official notification. If the student provides notification to an employee of that office while that person is not acting in his or her official capacity (for example, the student runs into her financial aid officer at the grocery store) we would expect the employee to inform the student of the appropriate means for providing official notification of his or her intent to withdraw.

Official notification from the student is any official notification that is provided in writing or orally. For example, acceptable official notification would include notification by a student via telephone, through a designated web site, or orally in person. The responsibility for documenting oral notifications is the school's; however, the school may request, but not require, the student to confirm his or her oral notification in writing. If a student provides official notification of withdrawal to the institution by sending a letter to the designated office stating his or her intent to withdraw, the withdrawal date would be the date that the institution receives the letter. Notification is not provided to an institution until the institution receives the notification. An institution has the option of using another date if it has evidence of an academically-related activity which the student attended on that date.

*Intent to withdraw* means that the student indicates he or she has either ceased to attend the school and does not plan to resume academic attendance, or believes at the time he or she provides notification that he or she will cease to attend the school. A student who contacts a school and only requests information on aspects of the withdrawal process, such as the potential consequences of withdrawal, would not be considered a student who is indicating that he or she plans to withdraw. However, if the student indicates that he or she is requesting the information because he or she plans to cease attendance, the student would be considered to have provided official notification of his or her intent to withdraw.

### When a student triggers both dates

A student might both begin the school's withdrawal process and otherwise provide official notification to the school of his or her intent to withdraw. For example, on November 1, a student calls the school's designated office and states his or her intent to withdraw. Later, on December 1, the student begins the school's withdrawal process by submitting a withdrawal form. If both dates are triggered, the earlier date, November 1 in this case, is the student's withdrawal date.

Again, remember that **a school that is not required to take attendance is always permitted to use the *last date of academically-related attendance* as the student's withdrawal date.**

### Timeframe for the determination of a withdrawal date for an unofficial withdrawal

Some schools may not know that a student has dropped out (unofficially withdrawn) until the school checks its records at the end of an academic period. However, to ensure that Title IV funds are returned within a reasonable period of time, a school must determine the withdrawal date (for a student who withdrew without providing notification) within 30 calendar days from the earlier of (1) the end of the payment period or period of enrollment, as applicable, (2) the end of the academic year, or (3) the end of the student's educational program.

### Official notification not provided by the student

A student who leaves a school does not always notify the school of his or her withdrawal. There are two categories of these unofficial withdrawals for purposes of this calculation. First, if the school determines that a student did not begin the withdrawal process or otherwise notify the school of the intent to withdraw due to illness, accident, grievous personal loss, or other circumstances beyond the student's control, the withdrawal date is the date the school determines from its consideration of circumstances beyond a student's control. The second category of unofficial withdrawals encompasses all other withdrawals where official notification is not provided to the school. For these withdrawals, commonly knows as *drop outs*, the withdrawal date is the midpoint of the payment period or period of enrollment, as applicable. Once again, this is strictly for schools that are not required to take attendance.

### Withdrawal without student notification due to circumstances beyond the student's control

There are two circumstances in which the special rule applies that define a withdrawal date for a student who withdraws due to circumstances beyond the student's control. They apply when (1) a student who would have provided official notification to the school was prevented from doing so due to those circumstances; and (2) a student withdrew due to circumstances beyond the student's control and a second party provided notification of the student's withdrawal on the student's behalf.

A school may determine the withdrawal date that most accurately reflects when the student ceased academic attendance due to the circumstances beyond the student's control. This date would not necessarily have to be the date of the occurrence of the circumstance. For example, if a student is assaulted, he or she may continue to attend school, but ultimately not be able to complete the period because of the trauma experienced. Because the student's withdrawal was the result of the assault, the withdrawal date would be the date the student actually left the school, not the date of the assault. A school should document that the student left at the later date because of issues related to the assault.

### All other withdrawals without student notification

For all other withdrawals without notification, the withdrawal date is the midpoint of the payment period or the period of enrollment, as applicable.

It is the responsibility of the school to develop a mechanism for determining whether a student who is a recipient of Title IV grant or loan funds has ceased attendance without notification during a payment period or period of enrollment. The requirement that a school identify students who have dropped out during a payment period or period of enrollment is not new. Under the Title IV refund requirements a school was required to identify drop outs. As part of this requirement, **a school must have a mechanism in place for identifying and resolving instances where a student's attendance through the end of the period could not be confirmed.**

### *Leave of absence related withdrawals*

At an institution not required to take attendance, if a student does not return to the school at the expiration of an approved leave of absence (or a student takes an unapproved leave of absence), the student's withdrawal date is the date the student began the leave of absence. At an institution required to take attendance, the withdrawal date for the same student would always be the student's last day of attendance.

### Withdrawals after rescission of official notification

A student may provide official notification to the school of the intent to withdraw and then change his or her mind. To allow a student to rescind his or her intent to withdraw for purposes of this calculation, the school must obtain a written statement from the student stating his or her intent to remain in academic attendance through the end of the payment period or period of enrollment. If the student subsequently withdraws (without returning to school) after rescinding an intent to withdraw, the withdrawal date is the date the student first provided notification to the school or began the school's withdrawal process, unless the school chooses to document a last date of attendance at an academically related activity.

As noted previously, **a school may always use the last date of attendance at an academically related activity to take into account attendance by the student subsequent to the student's first notification of withdrawal.** For example, Dave notifies his school of his intent to withdraw on January 5. On January 6, Dave notifies the school that he has changed his mind and has decided to continue to attend the school, and provides the required written statement to that effect. On February 15, Dave notifies the school that he is withdrawing and actually does. The school has a record of an exam that Dave took on February 9. The school may use February 9 as Dave's withdrawal date. If the school could not or did not choose to document a last date of attendance at an academically related activity for Dave (in this case, the record of the exam), his withdrawal date would be January 5, the date of Dave's original notification of his intent to withdraw, not February 15.

### *Last date of attendance at an academically-related activity*

A school that is not required to take attendance may always use a student's last date of attendance at an academically related activity, as documented by the school, as the student's withdrawal date, in lieu of the withdrawal dates listed above. So, if a student begins the school's withdrawal process or otherwise provides official notification of his or her intent to withdraw and then attends an academically related activity after that date, the school would have the option of using that last actual attendance date as the student's withdrawal date, provided the school documents the student's attendance at the activity. Similarly, a school could choose to use an earlier date if it believes the last documented date of attendance at an academically related activity more accurately reflects the student's withdrawal date than the date on which the student began the school's withdrawal process or otherwise provided official notification of his or her intent to withdraw.

**The school must document**
- **that the activity is academically related, and**
- **the student's attendance at the activity.**

The concept of using a last date of attendance at an academically related activity as a student's withdrawal date is a long-standing one for the Title IV programs. Examples of academically-related activities are an exam, a tutorial, computer-assisted instruction, academic counseling, academic advisement, turning in a class assignment, or attending a study group that is assigned by the school. Examples of activities that are not academically related would be living in institutional housing or participating in the school's meal plan. A school is not required to take class attendance in order to demonstrate academic attendance for this purpose.

Activities that meet this definition of an academically-related activity would not necessarily count as instructional time for purposes of the *12-hour rule* found in the definition of *academic year* and in the definition of an *eligible program* (see chapters 1 and 2).

### *Withdrawals from standard term-based programs using modules*

**Withdrawal from Program Offered in Modules Cite**
*DC-GEN-00-24*

Clarification

When a student withdraws from a standard term-based program comprised of a series of modules, the school must determine whether return calculation is required and if so, the length of the period of enrollment or payment period, as applicable. Among the variables a school must consider are whether the student has completed at least one course, and whether the student intends to return for another module within the term. The principles for determining the appropriate values to use in an return calculation are applicable only when the courses and modules have the following characteristics:

- Some or all of the courses in the program are offered in modules that are scheduled sequentially rather than concurrently. (The modules may overlap.)
- The institution has chosen to have two or more modules make up the standard term (semester, trimester, or quarter). For example, in each 15-week semester, courses are offered in three five-week modules.

- Students can begin attending at the beginning of any one of the modules in a term. For example, a student enrolling in a three module per semester program can start in module two or three as well as in module one.

- Students may skip one or more modules within the term. For example, a student enrolling in a three module per semester program can attend module one , skip module two and return for module three.

- Students enroll up-front for courses in all of the modules they plan to attend for the entire term; however, some students may subsequently add or drop a course in a later module.

**Clarification**

For modular programs meeting the aforementioned criteria, the following principles apply to the application of the Return of Title IV Aid provisions:

1. If a student withdraws from an institution after completing at least one course in one module within the term, the student is not considered to have withdrawn and the requirements of 34 CFR 668.22 for the return of Title IV aid do not apply. Note however, other regulatory provisions concerning recalculation may apply.

2. If a student withdraws from the institution before completing at least one course in one module, the student is considered to have withdrawn and the requirements for the return of Title IV aid apply unless the institution has obtained a confirmation from the student that the student intends to continue in the program by attending a module later in the term.

3. When a student withdraws without completing at least one course in one module, the payment period to be used in the return of Title IV aid calculation includes all of the modules that the student was scheduled to attend in the term. The payment period begins on the student's first day of attendance for the term and ends on the last day of attendance in the last module the student was scheduled to attend.

4. A student who has not completed at least one course in the payment period does not have to be considered to have withdrawn if the institution has obtained a confirmation from the student that the student intends to continue in the program and attend a module later in the term.

A school may not rely upon the student's previous registration. Rather, the confirmation from the student must be obtained after the student's withdrawal. If a student indicates an intention to continue in a subsequent module in the term but does not return for that module, the student would be considered to have withdrawn and withdrawal date would be the withdrawal date that would have applied if the student had not indicated an intention to attend a module later in the term.

For further treatment of withdrawals from standard term-based programs using modules, please see DC GEN 00-24, December 2000.

### *Documentation*

A school must document a student's withdrawal date and maintain that documentation as of the date of the institution's determination that the student withdrew. Note that the determination of a student's withdrawal date is the responsibility of the school. Therefore, if a school is using a last date of attendance at an academically related activity as the withdrawal date, the school, not the student, must document the student's attendance. **A student's certification of attendance that is not supported by school documentation would not be acceptable documentation of the student's last date of attendance at an academically related activity.**

### *Leaves of absence*

A leave of absence must meet certain conditions to be counted as a temporary interruption in a student's education rather than as a withdrawal for the calculation of the treatment of Title IV funds when a student withdraws. If a leave of absence does not meet the conditions, the student is considered to have ceased attendance at the school, and therefore to have withdrawn from the school.

A leave of absence refers to the specific time period during an ongoing program when a student is not in academic attendance. It does not include non attendance for a scheduled break in a student's program.

Term-based credit hour schools often allow students to receive an *incomplete* status for coursework, that can be, and is expected to be, completed within a reasonable timeframe after the term is over. For example, a student may request and receive an incomplete because he or she failed to turn in an assigned paper. If a student is assigned an incomplete status but the school determines that the student will likely complete the required coursework, the student could be considered not to have withdrawn. If the school assigns a student a leave status other than a leave of absence just to keep the student from having to reapply the next semester, the student would be considered to have withdrawn, unless he or she was granted an approved leave of absence under the provisions of this section. As discussed below, a student on an approved leave of absence must be permitted to complete the coursework he or she began prior to the leave of absence.

When a student returns from an approved leave of absence the payment period or period of enrollment used for a return calculation would be adjusted to reflect the new ending date. In order to prevent a situation where a student is able to earn funds simply by taking a leave of absence, the days of the leave of absence must be excluded from the calculation of the percentage of the payment period or period of enrollment completed.

**A student who is granted an approved leave of absence is considered to remain in an in-school status for Title IV loan repayment purposes**. However, as discussed previously, if a student does not return from an approved leave of absence, the student's withdrawal date, and the beginning of the student's grace period, is:

- for a student who withdraws from a school that is not required to take attendance, the date the student began the leave of absence, or
- for a student who withdraws from a school that is required to take attendance, the last date of academic attendance prior to the beginning of leave as determined by the school from its attendance records.

Subsequently, if a student on an approved leave of absence fails to return, a school must report to the loan holder the student's change in enrollment status as of the withdrawal date.

## Approved leaves of absence

For purposes of this calculation, a school does not have to treat a leave of absence as a withdrawal if it is an approved leave of absence. As noted above, the requirements for not treating a leave of absence as a withdrawal also apply to terminating a student's in-school status for a Title IV loan. A leave of absence is an approved leave of absence if:

- it is the only leave of absence granted to the student in a 12-month period (see exceptions listed below);
- the school has a formal written policy regarding leaves of absence;
- the student followed the school's policy in requesting the leave of absence;
- the school approved the student's request in accordance with the school's policy;
- the school determines that there is a reasonable expectation that the student will return to the school;
- the leave of absence does not involve additional charges by the school;

- the leave of absence does not exceed 180 days in any 12-month period;

- upon the student's return from the leave of absence, the student is permitted to complete the coursework he or she began prior to the leave of absence; and

- if the student is a Title IV loan recipient, the school explains to the student, prior to granting the leave of absence, the effects that the student's failure to return from a leave of absence may have on the student's loan repayment terms, including the exhaustion of the student's grace period.

### *Number of leaves of absence in a 12-month period*

Generally, only one leave of absence may be granted to a student in a 12-month period. However, more than one leave of absence may be granted for the limited, well-documented cases due to unforeseen circumstances that are listed below.

Provided that the total number of days of all leaves of absence does not exceed 180 days in any 12-month period, an institution may treat as an approved leave of absence:

- one additional leave of absence, if it does not exceed 30 days and the school determines that it is necessary due to unforeseen circumstances; this type of leave of absence would have to be subsequent to the granting of the single leave of absence, which is granted at the school's discretion; and

- subsequent leaves of absence if the school documents that they are granted for jury duty, military reasons, or circumstances covered under the Family and Medical Leave Act of 1993 (FMLA) (Public Law 103-3), enacted February 5, 1993.

The circumstances that are covered under the FMLA, as applied to students, are:

- birth of a son or daughter of the student and the need to care for that son or daughter (for 12 months beginning from the date of birth of the child);

- placement of a son or daughter with the student for adoption or foster care (for 12 months beginning on the date of the placement);

- need to care for the student's spouse, or a son, daughter, or parent, if the spouse son, daughter, or parent has a serious health condition; and

- a serious health condition that makes the student unable to function as a student.

The definitions of terms taken from the FMLA and its implementing regulations (29 CFR Part 825) are applicable for these criteria. The statutory language, with links to the implementing regulations, can be found on the Internet at

http://www.dol.gov/dol/esa/public/regs/statutes/whd/fmla.htm

Two of the circumstances that are covered under the FMLA, birth and care of a child and adoption or foster care placement, are covered for up to 12 months for purposes of the FMLA. For purposes of the Title IV programs, this means a student may be granted an approved leave of absence for these circumstances, as long as:

- the entire leave of absence will occur during this 12 month period of time; and
- the total number of days of all leaves of absence for the student does not exceed 180 days in the 12-month period that began on the first day of the student's first leave of absence.

For example, a student's child is born on February 1, 2000. The student has never taken an approved leave of absence before. The student may be granted an approved leave of absence for the birth or care of the child for up to 180 days during the period of February 1, 2000 through January 31, 2001, 12 months from the birth date of the child. If the student requests a subsequent leave of absence to care for the child that would begin on January 1, 2001, the leave of absence could be no longer than 30 days, because the circumstance that triggered the leave of absence would no longer be covered under the FMLA after January 31, 2001.

A school may accept one request for multiple leaves of absence from a student when those leaves are initially requested for the same reason. For example, a student who will be receiving multiple chemotherapy treatments over the course of the student's enrollment could submit one request to cover the recovery time needed for each session.

### Formal policy

A *formal policy* is one that requires a student to provide a written, signed, and dated request for a leave of absence prior to the leave of absence, unless unforeseen circumstances prevent the student from doing so. For example, if a student were injured in a car accident and needed a few weeks to recover before returning to school, the student would not have been able to request the leave of absence in advance. A school may grant a leave of absence to a student who did not provide the request prior to the leave of absence due to unforeseen circumstances if the school documents the reason for its decision and collects the request from the student at a later date.

A school must put its leave of absence policy in writing and publicize it to students. This requirement would be met by including the policy with the onetime dissemination of other consumer information (see chapter 7).

### *Reasonable expectation of return*

This condition is specified to make clear that a school may not grant a student a leave of absence merely to delay the return of unearned Title IV funds.

### *No additional charges*

A leave of absence is a temporary break in the student's attendance during which, for purposes of determining whether a calculation for the treatment of Title IV funds when a student withdraws applies, the student is considered to be enrolled. Since students are not assessed additional charges for continuing enrollment, any additional charges to a student, even de minimus reentry charges, indicate that the student is not considered to be on an approved leave of absence.

### *Does not exceed 180 days in any 12-month period*

The 12-month period would begin on the first day of the student's leave of absence.

### *Completion of coursework upon return*

In order for a leave of absence to be an approved leave of absence, the school must permit the student to complete the coursework that he or she began prior to the leave of absence. Approved leaves of absence are viewed as temporary interruptions in a student's attendance. Therefore, when a student returns from a leave of absence, the student **must** be continuing his or her education where he or she left off.

Many institutions cannot meet this standard because they **require** the student to return at the beginning of a term and repeat some coursework previously completed. Even if a school does not charge for work repeated, if a school **requires** a student to return from a leave of absence at the beginning of a term rather than at the point at which the student interrupted his or her training, the school's leave of absence does **not** meet the standard required for a Title IV leave of absence.

### *Explanation of consequences of withdrawal to loan recipients*

As discussed previously, if a student does not return from an approved leave of absence, the student's withdrawal date is the date the student began the leave of absence. One consequence of not returning from a leave of absence is that a student's grace period for a Title IV program loan might be exhausted. **Therefore, in order for a leave of absence to be an approved leave of absence, a school must inform a student who is a Title IV loan recipient of the possible consequences a withdrawal may have on the student's loan repayment terms, including the exhaustion of the student's grace period.** A student who has exhausted his or her grace period and is unable to begin repayment of a loan may apply for a deferment or forbearance of payment (see *Volume 8 – Direct Loan and FFEL Programs* for more information).

## Unapproved leaves of absence

A school may grant a student a leave of absence that does not meet the conditions for an *approved* leave of absence (for example, for academic reasons). However, any leave of absence that does not meet all of the conditions for an approved leave of absence is considered a withdrawal for Title IV purposes. The student's withdrawal date is the date the student begins the leave of absence.

An unapproved leave of absence may not be treated as an unofficial withdrawal. An unofficial withdrawal is one where the school has not received notice from the student that the student has ceased or will cease attending the school. If a school has granted a student an unapproved leave of absence, the school would be aware of when the student will cease attendance.

## Percentage of payment period or period of enrollment completed

Once a student's withdrawal date is determined, a school needs to calculate the percentage of the payment period or period of enrollment completed. The percentage of the payment period or period of enrollment completed represents the percentage of aid earned by the student. This percentage is determined differently for students who withdraw from credit-hour programs and students who withdraw from clock-hour programs.

## Credit-hour programs

For a credit-hour program, the percentage of the period completed is determined by dividing the number of calendar days completed in the payment period or period of enrollment, as of the day the student withdrew, by the total number of calendar days in the same period. The total number of calendar days in a payment period or period of enrollment includes all days within the period, **except for institutionally scheduled breaks of five or more consecutive days.** Days in which the student was on an approved leave of absence would also be excluded. The day the student withdrew is counted as a completed day.

## Scheduled breaks

Institutionally scheduled breaks of five or more consecutive days are excluded from the return calculation as *periods of nonattendance* and therefore do not affect the calculation of the amount of Title

IV aid earned. This provides for more equitable treatment of students who withdraw near each end of a scheduled break. In those instances, the student who withdrew after the break would not be given credit for earning an additional week of funds during the scheduled break, but would instead earn only an additional day or two more funds than a student who withdrew right before the start of the break. All days between the last scheduled day of classes before a scheduled break and the first day classes resume are excluded from both the numerator and denominator in calculating the percentage of the term completed. For example, where classes end on a Friday and do not resume until Monday following a one-week break, both weekends (9 days) would be excluded from the return calculation. If classes were taught on either weekend for the programs that were subject to the scheduled break, those days must be counted.

Please note that the beginning date of a scheduled break is defined by the school's calendar for the student's program. For a program that regularly meets each Saturday and or Sunday, the days between classes are not excluded because they were not part of any regularly scheduled break. If classes were not held on at least one of the normally scheduled days of a weekend, the period from the last scheduled day of class before the scheduled break until the next scheduled day of class after the break would be excluded from the number of days in the period of enrollment used in the return calculation.

**Clarification**

If a student officially withdraws while on a scheduled break of five consecutive days or more, the withdrawal date is the last date of scheduled class attendance. For example, the institution's last date of scheduled class attendance prior to spring break is Friday, March 7. Spring break at the institution runs from Saturday, March 8 to Sunday, March 16. If the student contacts the institution's designated office on Wednesday, March 12 to inform the institution that he will not be returning from the institution's Spring break, the student's withdrawal date is Friday, March 7, which was the institution's last day of scheduled class attendance. However, the date of the institution's determination that the student withdrew is March 12, the date the student actually informed the institution that he would not be returning. The date of the institution's determination that the student withdrew is used as the starting date for institutional action, such as the requirement that an institution return Title IV funds for which it is responsible no later than 30 days after this date.

If a student officially withdraws while on a scheduled break of less than five days, the actual date of the student's notification to the institution is the student's withdrawal date. Remember that an institution may always choose to use a documented last date of attendance at an academically-related activity as the student's withdrawal date.

## *Clock-hour programs*

Under the Title IV refund requirements, schools were allowed to use only clock hours actually completed by the student upon his or her withdrawal. Hours that were scheduled to be completed by the student at the time of withdrawal could not be used. The new law provides that for the determination of the treatment of Title IV funds when a student withdraws, scheduled hours may be used to determine the percentage of the period completed by the student if certain conditions are met.

Calculation 1 on the clock-hour worksheet determines whether the student withdrew after the student has actually completed 60% of the payment period or period of enrollment. **If the student withdrew after actually completing at least 60% of the payment period or period of enrollment, the student has earned 100% of his or her aid so it is not necessary to determine whether scheduled hours may be used.** If a student withdrew on or before the 60% point, the school should proceed to calculation 2 to determine if scheduled hours may be used.

## *Use of scheduled hours*

If the clock hours completed by the student as of his or her withdrawal are equal to at least 70% of the hours that were scheduled to be completed by the student as of his or her withdrawal, scheduled hours may be used to determine the percentage. Put another way, **students who complete at least 70% of their scheduled hours before they withdraw earn Title IV funds based upon their total scheduled hours for the time they were enrolled**, rather than the hours the student completed. Calculation 2 first determines the percentage of scheduled hours completed. If this amount is equal to or greater than 70%, scheduled hours are used and the school should proceed to the second part of calculation 2. **If the percentage of scheduled hours completed is less than 70%, completed hours must be used in the calculation of the percentage of the period completed.** Because calculation 1 determined the percentage of the period completed using completed hours, the result of that calculation is the percentage of the period completed.

For example, if a student withdraws after completing 230 hours in a 450 clock-hour payment period, and the student was scheduled to have completed 280 hours of the program at the time he or she withdrew, that student has completed 82% of the scheduled hours (230/280) for the time he or she was enrolled. In this case, the student exceeded the attendance threshold of 70% and, therefore, the school would use the 280 scheduled hours, rather than the 230 hours that were actually completed, in calculating of the percentage of the period completed. If the same student had completed 230 clock hours while he or she was scheduled to have completed 335 hours at the point of withdrawal, the student's attendance rate would have been less than 70% (230/335=68.7%) and only the 230 completed hours would be used in the calculation.

The second part of calculation 2, which uses scheduled hours to determine the percentage of the period completed, notes that **using scheduled hours, the percentage of the period completed may be greater than 60%**. This is because only students who actually complete more than 60% of the hours in the payment period or period of enrollment earn 100% of the Title IV funds. In the example above, the school determined that the student may be paid for 280 scheduled hours in the 450 clock-hour-payment period. The percentage of the payment period completed would be 62.2% (280/450), even though the student actually completed only 51.1% of the total hours (230/450). However, the student would not earn 100% of the Title IV funds because the 230 clock hours completed were less than 60% of the 450 clock hours in the payment period. The student would earn 62.2% of the Title IV funds that were disbursed or that could have been disbursed rather than the 51.1% the student would have earned if completed hours were used in the calculation.

If a student has completed more hours than he or she was scheduled to complete as of his or her withdrawal, completed hours may be used rather than scheduled hours (e.g. as when a student accelerates attendance).

### Excused absences

Excused absences do not count as completed hours in calculating of the treatment of Title IV funds when a student withdraws. For students who withdraw from their programs, the absences must be counted as scheduled hours that were not completed. In order to be paid for those hours, the student must satisfy the 70% attendance measure. The allowance of up to 30% of the scheduled hours to be missed is sufficient to cover most of the situations for unexpected absences. Remember that a school may grant a student a leave of absence if he or she is unable to attend the school for a period of time but is planning to return to academic attendance (see the discussion of leaves of absence above). For students who do not withdraw from their programs, the existing policy of not requiring clock hours to be completed for excused absences of up to 10% of the program remains.

## *Step 3: Amount of Title IV aid earned by the student*

The amount of Title IV aid earned by the student is determined by multiplying the percentage of Title IV aid earned (box C on the worksheet) by the total of Title IV program aid disbursed plus the Title IV aid that could have been disbursed to the student or on the student's behalf (box B on the worksheet).

## Effects of a post-withdrawal reduction in charges

**Determining Charges Cites**
*34 CFR 668.22(a),*
*34 CFR 668.22(l)(4), and*
*DC-GEN-00-24*

If a student withdraws and as a result the institutional refund policy does not assess any charges to the student, regardless of the reason a school reverses or cancels a students charges, the Return of Title IV Aid requirements still apply. An otherwise eligible student who began attendance at a school and was disbursed or could have been disbursed Title IV grant or loan funds prior to a withdrawal has earned a portion of those Title IV funds. After a student withdraws, any adjustment or elimination of a student's institutional charges, changes to the student's enrollment status, or other administrative determinations made by the institution have no bearing on the applicability of the requirements in 34 CFR 668.22.

## *Step 4: Total Title IV Aid to be disbursed or returned*

If the student receives less Title IV aid than the amount earned, the school must make a disbursement of the earned aid that was not received. This is called a post-withdrawal disbursement. If the student receives more Title IV aid than the amount earned, the school, the student, or both must return the unearned funds in a specified order.

## Post-withdrawal disbursements

If a post-withdrawal disbursement is due, a school stops at Step 4, E on the worksheet. A school may use the *Post–Withdrawal Disbursement Tracking Sheet* to track the handling of the post-withdrawal disbursement, or it may use a form developed locally. A school must track post-withdrawal disbursements.

The requirements for a post-withdrawal disbursement are similar in many areas to the requirements under Subpart K – Cash Management of the Student Assistance General Provisions regulations. However, in some cases, the post-withdrawal disbursement requirements differ from the cash management requirements.

Any post-withdrawal disbursement due must meet the current required conditions for late disbursements. For example, the school must have received the student's Student Aid Report (SAR) or Institutional Student Information record (ISIR) with an official expected family contribution (EFC). These conditions are listed in a chart on Late Disbursements in chapter 5. Post-withdrawal disbursements differ from late disbursements in several ways. While a school has the discretion to determine whether to make a late disbursement to a student who became ineligible solely because of a change in enrollment status, **a school is required to make post-withdrawal disbursements.** A late disbursement must be for incurred educational costs, and must be made within 90 days of the date the student becomes ineligible. The amount of a post-withdrawal disbursement is determined by following the requirements for calculating earned Title IV aid, and has no relationship to incurred educational costs. Moreover, **a post-withdrawal disbursement made as the result of a withdrawal must be made within 90 days of the date of the institution's determination that the student withdrew, rather than within 90 days of the date that the student becomes ineligible.**

## Crediting a student's account

Clarification

An institution should not request Title IV; HEA program funds for a post-withdrawal disbursement unless and until it has determined:

1. that a post-withdrawal disbursement is due;
2. the amount of the post-withdrawal disbursement;
3. the student meets the criteria for a late disbursement; and
4. that the school can disburse any post-withdrawal disbursement within three business days of receiving the funds.

If the student is due a post-withdrawal disbursement of a federal education loan, in the information a school provides to a student when the school informs the student that he or she is due a post-withdrawal disbursement, the school should include information about the advantages of using the post-withdrawal disbursement to pay down Title IV education loans. With a student's permission, funds due a student in a post-withdrawal disbursement can be used to pay down a Title IV education loan thereby reducing any post-withdrawal disbursement made directly to the student.

**Cash Management Requirements for Student and Parent Authorizations Cite**
*34 CFR 668.165(b)*

Clarification

The requirements for the treatment of Title IV funds when a student withdraws reflect the cash management requirements for disbursing Title IV funds. Specifically, a school is permitted to credit a student's account with a post-withdrawal disbursement without the students (or parent's, in the case of a PLUS loan) permission for current charges for tuition, fees, and room and board (if the student contracts with the school) up to the amount of outstanding charges. An institution must obtain a student's or parent's authorization to credit a student's account for charges other than current charges for tuition, fees, room and board (if the student contracts with the institution) (see chapter 5 and chart on *Institutional and Financial Assistance Information for Students* at the end of chapter 7 for more information).

Outstanding charges on a student's account are charges for which the institution will hold the student liable after the application of any applicable refund policy. These are the institutional charges, after any adjustment, that reflect what the student will really owe for the current term after his or her withdrawal, any other current charges, plus any permitted minor prior year charges.

For example, consider a student who is due a post-withdrawal disbursement of $450. The institutional charges that the student was originally assessed by the institution totaled $2,300. However, under the institution's refund policy, the institution may only keep $700 of those institutional charges. No funds had been paid toward the institutional charges at the time the student withdrew. In addition, the student owes $50 for a bus pass. The outstanding charges on the student's account that would be entered in Box B of the Post-Withdrawal Disbursement Tracking Sheet are $750 (the $700 in institutional charges plus the $50 owed for the bus pass). All or a portion of the $450 the institution must disburse under the post-withdrawal disbursement provisions may be used to satisfy this balance.

A school is permitted to use a student's or parent's authorization, obtained prior to the student's withdrawal date for this purpose so long as that authorization meets the cash management requirements for student or parent authorizations. If the school did not obtain authorization prior to the student's withdrawal, the school would have to obtain authorization in accordance with the cash management requirements before the school could credit the student's account for other current charges for educationally-related activities. (See chapter 5 for more information on student and parent authorizations.) The school's request for the student's or parent's authorization must make clear that if the student or parent does not give permission for the school to credit the student's account with the Title IV funds, these funds will be disbursed directly to the student or parent, if the student or parent accepts the funds. If a school does not have permission from the student (or parent for a PLUS loan) prior to the student's withdrawal and does not obtain that permission after the student's withdrawal, **the undisbursed earned funds must be offered to the student and cannot be used by the school to pay remaining institutional charges other than for tuition, fees, and room and board (if the student contracts with the school)**.

A school may credit a student's account for **minor prior award year charges** in accordance with the cash management requirements (see chapter 5). Schools should make every effort to explain to a student that all or a portion of his or her post-withdrawal disbursement has been used to satisfy any charges from prior award years.

These requirements also mirror the current cash management provisions that require a school to provide notice to a student, or parent in the case of a PLUS loan, when the school credits a student's account with Direct Loan, FFEL or Federal Perkins Loan Program funds.

## Notice to a student offering a post-withdrawal disbursement

Earned funds in excess of those credited to a student's account must be provided to the student. The Department recognizes the difficulty a school may have in locating a withdrawn student, however a school is required to offer in writing to the student (or parent for PLUS loan funds) any amount of a post-withdrawal disbursement that is not credited to a student's account. The written notification must include the information necessary for the student or parent to make an informed decision as to whether the student or parent would like to accept any of the disbursement. This notification would have to be provided for post-withdrawal disbursements of both SFA grant and loan funds that are available for direct disbursement.

A school must send the notification as soon as possible, but **no later than 30 calendar days after the date that the school determines the student withdrew.** The notice must identify the type and amount of the Title IV funds that make up the post-withdrawal disbursement, and explain that the student or parent may decline all or a portion of those funds. This information must be provided to permit a student or parent to determine which funds, if any, he or she wishes to decline.

In the notification, the school must advise the student or parent that he or she has 14 calendar days from the date the school sent the notification to accept a post-withdrawal disbursement. The notification must make it clear that if the student or parent does not respond to the notification within the timeframe, the school is not required to make the post-withdrawal disbursement. However, a school may *choose* to make a post-withdrawal disbursement based on acceptance by a student or parent after the 14 calendar days. If a response is not received from the student or parent within the permitted timeframe, or the student declines the funds, the school would return any earned funds that the school was holding to the Title IV programs.

If a student or parent submits a timely response accepting all or a portion of a post-withdrawal disbursement, per the student's or parent's instructions, the school must disburse the funds within 90 days of the date of the institution's determination that the student withdrew. (For additional information, see the discussion under *Date of the institution's determination that the student withdrew* earlier in this chapter. Note that the date of the institution's determination that the student withdrew is the same date that triggers the 30-day period that the school has for notifying the student or parent of any post-withdrawal disbursement available for direct disbursement. Consequently, the sooner a school sends the notification to a student or parent, the more time the school has to make any accepted post-withdrawal disbursement.

A school may use one notification to:

1. inform the student or parent that loan funds were credited to the student's account;

2. request permission to credit the student's account for other current charges for educationally-related activities, if prior authorization was not obtained; and

3. notify the student or parent of the availability of any remaining earned Title IV program assistance.

If authorization from a student (or parent for a PLUS loan) is received after the 14-day deadline and the school chooses not to make a post-withdrawal disbursement, the school must notify the student (or parent) that the post-withdrawal disbursement will not be made and why. This notification must be made in writing or electronically. It is required because a student or parent may assume incorrectly that his or her acceptance of a post-withdrawal disbursement has been received within the timeframe and that the post-withdrawal disbursement will be made. If an authorization from the student (or parent for a PLUS loan) is never received, or if the school chooses to make a post-withdrawal disbursement on an authorization received after the 14-day deadline, the school does not need to notify the student.

## Disburse grant before loan

A post-withdrawal disbursement, whether credited to the student's account or disbursed to the student or parent directly, must be made from available grant funds before available loan funds since it is in the student's best interest to minimize loan debt. *Available* grant or loan funds refers to Title IV program assistance that could have been disbursed to the student but was not disbursed as of the date of the institution's determination that the student withdrew. For example, if a student is due a post-withdrawal disbursement of $500, and the student has received $400 of $1,000 in Federal Pell Grant funds that could have been disbursed, and $1,200 of the $2,000 in Federal Stafford Loan funds that could have been disbursed, the available undisbursed funds are $600 in Federal Pell Grant funds, and $800 in Federal Stafford loan funds. Any portion of the $500 post-withdrawal disbursement that the school makes must be from the $600 in available Federal Pell Grant funds.

The regulations do not address how a school should ensure that Title IV funds are disbursed to the proper individual. However, a school may not require a student who has withdrawn from a school (or a parent of such a student, for PLUS loan funds) to pick up a post-withdrawal disbursement in person. Because the student is no longer attending the school, he or she may have moved out of the area and may be unable to return to the school to pick up a post-withdrawal disbursement.

## Example of the post-withdrawal disbursement requirements

Michael drops out of school on November 5. On November 10, the school becomes aware that Michael has ceased attending. The school determines that because Michael has earned $900 in Title IV Program assistance that he has not received, he is due a post-withdrawal disbursement of $900. When Michael withdrew, only $600 of the $1,000 in Federal Pell Grant funds that could have been disbursed had been disbursed. Of the $2,000 in Federal Stafford Loan funds that could have been disbursed, none had been disbursed. The school determines that Michael has $50 in outstanding tuition charges and $100 in outstanding parking fines for the payment period. The school credits Michael's account with $50 of Michael's Federal Pell Grant funds. The school wants to use another $100 of his post-withdrawal disbursement to cover the outstanding parking fines. However, the school has not received permission from Michael prior to his withdrawal to credit his account for educationally-related charges other than tuition, fees, and room and board.

On November 12, the school sends a notification to Michael stating that:

1. He is due a post-withdrawal disbursement of $900 that is made up of $400 in Federal Pell Grant funds and $500 in Federal Stafford Loan funds.
2. $50 of the Federal Pell Grant funds were credited to his account for tuition charges, so Michael has a remaining potential post-withdrawal disbursement of $850.
3. Michael may accept all, a portion, or none of the $850.
4. The school is obligated to make a post-withdrawal disbursement of funds only if Michael accepts the funds by November 26, 14 days after the school sent the notification.
5. The school is requesting his permission to credit his account with an additional $100 of the Federal Pell Grant funds to cover his unpaid parking fines (a *discretionary* educationally-related expense).
6. If Michael does not authorize the school to credit his account with the $100 of Federal Pell Grant funds, those funds will be disbursed to him if he chooses to accept them. The school could have sent the notification no later than December 10th, that is, 30 days after the date of the institution's determination that the student withdrew.

Michael responds on November 19. He authorizes the school to apply $100 of the Federal Pell Grant funds to his outstanding parking fines. Michael accepts the remaining $250 in Federal Pell Grant funds, but declines the $500 in Federal Stafford Loan funds to minimize his overall loan debt.

*Example Continued*

The school has until February 8, 90 days from the date of the institution's determination that the student withdrew, to disburse the $250 in Federal Pell Grant funds to Michael and to credit his account with the $100 of Federal Pell Grant funds to cover his outstanding parking fines. The school sends Michael a check for the $250 in Federal Pell Grant funds and a letter confirming that $100 of the Federal Pell Grant funds will be credited to his account and no loan funds will be disbursed.

## Title IV aid to be returned

If the student receives more Title IV aid than the amount earned, the school, the student, or both must return the unearned funds in a specified order. The amount of Title IV aid to be returned is determined by subtracting the amount of earned Title IV aid (box D) from the amount of Title IV aid that was actually disbursed to the student, **not** including *aid that could have been disbursed* (box A).

The amount of aid that was actually disbursed, rather than the total amount of aid that was disbursed and that could have been disbursed, is used because the only amount of Title IV aid that needs to be returned is the amount of disbursed aid that exceeds the amount of earned aid.

## *Step 5: Amount of unearned Title IV aid due from the school*

When a return of Title IV funds is due, the school and the student both have a responsibility for returning funds. Whatever funds are not returned by the school must be returned by the student. Although these requirements talk in terms of returning funds, a school is not required to actually return its share before the student. Rather, it is the calculation of the amount of assistance the school is responsible for returning to the Title IV accounts that must be calculated first. The student's repayment obligation is determined after the school's share is calculated.

The school must return the lesser of

- the amount of Title IV funds that the student does not earn; or
- the amount of institutional charges that the student incurred for the payment period or period of enrollment multiplied by the percentage of funds that was not earned.

The percentage not earned is determined by subtracting the percentage of Title IV aid earned (box C) from 100%.

## Aid disbursed to the student before institutional charges are paid

Consider a case in which, in order to assist a student with living expenses, a school elects to deliver the first Title IV aid the school receives for a student to the student. Then, the student withdraws before the school receives anticipated aid from a second Title IV program. The return calculations indicate the school must return funds, but the school had passed through all funds to the student. **The school still must return the funds to the Title IV programs.**

During the negotiated rulemaking process, it was agreed that Title IV funds are provided under the assumption that they are used to pay institutional charges ahead of all other aid. Institutions may establish their own policies for distributing Title IV aid. However, if a school's policies allow a school to disburse directly to a student Title IV funds to which the institution is entitled, the institution must bear the consequences of those policies in the event the student withdraws.

## Institutional charges

On January 7, 1999, the Secretary published guidance on the definition of institutional charges for the purpose of refund calculations. This guidance was published in the form of a policy bulletin on the Education Department's Information for Financial Aid Professionals (IFAP) web site. The guidance was initially developed to address requests for clarification of the definition of institutional charges as used in the pre-1998 Amendments refund requirements.

Under the pre-1998 Amendments requirements, refund provisions were used to determine the portion of institutional charges that a school had to return when a student withdrew. The 1998 Amendments differ in that they only require institutional charges be used to determine the portion of unearned Title IV aid that the school is responsible for returning. **Under the return provisions, institutional charges do not affect the amount of Title IV aid that a student earns when he or she withdraws.**

### *Use of institutional charges in determining the school's responsibility for return*

The institutional charges used in the calculation are always the charges that were initially assessed the student for the payment period or period of enrollment. Because Title IV aid is provided for the entire payment period or period of enrollment, as applicable, the calculation uses institutional charges assessed for that entire payment period or period of enrollment. An institution may not use the unpaid charges on the student's account at the time of withdrawal or the adjusted amount of institutional charges that results from the institution's refund policy or from a *retroactive withdrawal* of the student.

**Institutional Charges Cite**
*34 CFR 668.22(g)(1)(ii)*
*34 CFR 668.22(g)(2)*
*DC-GEN-00-24*

**Clarification**

**Effect of Other Assistance Cite**
*Federal Register/Vol. 64, No. 210, 11/1/99, page 59032*

Clarification

**Institutional Charges may not be reduced even if other sources of aid are used to pay those charges.** For example, a school may not reduce institutional charges when an outside agency supplying aid requires that aid to be used for tuition. The allocation of repayment responsibilities in the HEA looks first to the institution to repay unearned Title IV, HEA program funds. The presumption, embodied in the current regulations is that SFA program funds are used to pay institutional charges ahead of all other sources of aid. The regulations do not provide for institutions to adjust this allocation by taking into consideration other sources of aid that might be used to pay institutional charges for a student.

Initial charges may only be adjusted by those changes the institution made prior to the student's withdrawal (for example, for a change in enrollment status). If after a student withdraws the institution changes the amount of institutional charges it assessed the student, or decides to eliminate all institutional charges, those changes affect neither the charges nor aid earned in the calculation. (Please see Step 3 – Amount of Title IV Aid earned by the Student, for a further discussion of aid earned and institutional charges).

As stated previously, for students who withdraw from a non-term-based educational program, the school has the choice of determining the calculation on either a payment period basis or a period of enrollment basis. If a school with a nonterm program chooses to base the calculation on a payment period, but the school charges for a period longer than the payment period (most likely the period of enrollment), there may not be a specific amount that reflects the actual institutional charges incurred by the student for the payment period. In this situation, the student's institutional charges for the payment period are the prorated amount of institutional charges for the longer period. However, if a school has retained Title IV funds in excess of the institutional charges prorated amount, including allocating costs for equipment and supplies to the front of the program, the funds retained by the school are attributed to that payment period because they are a better measure of the student's institutional charges for that period.

Because Federal Work-Study funds are not included in the calculation of earned Title IV funds when a student withdraws, **Federal Work-Study funds that are credited to a student's account would not be included as Title IV program assistance retained for institutional charges**.

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For example, institutional charges are $8,000 for a non-term-based program that spans two payment periods of 450 clock hours each. The school chooses to calculate the treatment of Title IV funds on a payment period basis. A student withdraws in the first payment period. The prorated amount of institutional charges for each payment period is $4,000. However, the school has retained $5,000 of the Title IV funds for institutional charges for the payment period. Therefore, the institutional charges for the payment period are $5,000 — the greater of the two elements from the proration calculation

### Effects of Waivers on Institutional Charges

Clarification

If the institution treats a *waiver* as a payment of tuition and fees actually charged to a student, then that payment would be considered to be a financial aid resource and the Cost of Attendance calculation would include the full amount of the tuition and fees. Any return of Title IV Aid calculation would be based on the full original charge for the tuition and fees for the period used in the calculation.

For example, an institution charges state residents $900 per semester. Out of state students are charged an additional $2,000 for a total of $2,900. However, the institution grants *waivers* of the out-of-state charges to some out-of-state athletes. If the institution treats this waiver as a payment, the full charges to an out-of-state student who received a waiver would be $2,900, and would be included in the COA. The waiver would be considered a payment to those charges and a subsequent transaction would need to show the application of the waiver funds of $2,000 to the student's account. Institutional charges for any return of Title IV aid calculation would be the original $2,900 amount.

On the other hand, if the institution's policy for these *waivers* is that the student was never actually assessed the higher amount and the waiver is not considered to be financial aid, only the actually assessed charges would be used for COA and return of Title IV aid purposes. In the example, the full charges to an out-of-state student who receives a waiver would be $900 because the $2,000 charge does not exist for that student. Any return of Title IV aid calculation would use institutional charges of $900.

**Note:** The following guidance was written specifically for the Refund and Repayment calculations that were required prior to the 1998 amendments.

## January 7, 1999 Policy Bulletin

### Institutional versus noninstitutional charges

Tuition, fees, room and board, and other charges have been collectively and historically referred to as *institutional charges.* **Institutional and noninstitutional expenses are not defined by whether an actual charge has been made to a student's institutional account.** As a general rule, institutional charges are defined as expenses that a school assesses a student for educational expenses and are paid to the school directly.

### Principle 1: Most costs are institutional

The most important principle to keep in mind is that all tuition, fees, room and board, and other charges a school assesses a student are institutional charges, unless demonstrated otherwise. Thus, a school is never compelled to classify a charge as noninstitutional if it wishes to classify the charge as institutional. However, if a school wishes to exclude specific charges or costs from a calculation, it must demonstrate that the charges are noninstitutional charges. Noninstitutional costs are discussed under *General Guidelines for Defining Institutional Charges.*

### Principle 2: An institutional charge does not need to be assessed to all students

Schools sometimes mistakenly assume that a charge is not an institutional charge because it was not assessed to all students, or the charge was not included in the enrollment agreement. For example, general guidance provides that *other charges assessed the student by the school include, but are not limited to* all items issued by the school to the student when those charges are specified in the enrollment agreement as separate charges. However, it should be noted that other charges are not limited to items that are listed in the enrollment agreement. While a charge must be assessed to all students carrying the same academic workload to be considered an allowable cost of attendance, and Title IV funds may only be used to pay allowable cost of attendance charges, it is not true that a charge must be assessed to all students, or be listed in an enrollment agreement, to be considered a institutional charge for purposes of this calculation.

### Principle 3: Institutional charges may or may not be charged to a student's account

Note the following points about institutional charges:

1. All charges to a student's account are not necessarily institutional charges.

With the student's permission, a school may credit a student's account with Title IV funds to pay for noninstitutional charges. Consequently, if a student withdraws from the school with charges for noninstitutional charges on his or her account, the school must use those charges to determine if the student owes a repayment. Specific charges that may be classified as noninstitutional charges are defined in the discussion on *General Guidelines for Defining Institutional Charges.*

2. Charges that do not appear on the student's institutional account may still be institutional charges.

For example, a student does not have to charge the purchase of required course materials to his or her institutional account for the course materials to be classified as *institutional charges.* If a school disburses funds to a student to buy equipment that he or she is required to have by the first day of class, but the disbursement is so late that the student only has time to purchase the equipment at the school, those costs must be **classified as institutional charges because the student does not have a *real and reasonable opportunity* to purchase the equipment from someplace other than the school**.

### *General guidelines for defining institutional charges*

The following educational expenses must be considered institutional charges:

- all charges for tuition, fees, and room and board (if contracted with the school); and
- expenses for required course materials, if the student does not have a *real and reasonable opportunity* to purchase the required course materials from any place but the school.

**Exceptions:** *Excludable costs* are defined as costs that a school may exclude from the total amount of institutional costs, such as an administrative fee, documented cost of unreturnable equipment, and documented cost of returnable equipment if not returned in good condition within 20 days of withdrawal.

Noninstitutional charges include:

- a charge for any required course materials that a school can document are noninstitutional because the student had a *real and reasonable opportunity* to purchase them elsewhere (see the discussion that follows);
- a charge to the student's account for room charges that are collected by the school but are *passed through* to an unaffiliated entity;
- a charge to student's account for group health insurance fees, if the insurance is required for all students and the coverage remains in effect for the entire period for which the student was charged, despite the student's withdrawal; or
- a charge to a student's account for discretionary educationally related expenses (e.g., parking or library fines, the cost of athletic or concert tickets, etc.).

### *Demonstrating a real and reasonable opportunity*

A school may treat certain charges as noninstitutional charges when the school can show that its students have the option of obtaining required course materials from the school or receiving payment of the funds from the school to purchase the items from alternative sources.

If a school does not have a separate charge for equipment and the student has the option of purchasing the equipment from more than one source, the school would not have to include the equipment charge in the return of funds calculation.

With regard to this exception, note that if a school wishes to classify the cost of required books, supplies, and equipment as noninstitutional charges, **it must be able to substantiate that an option actually existed for its students**. For example, the school must be able to demonstrate that: (1) the required course materials were available for purchase at a relatively convenient location unaffiliated with the school; and (2) the school did not restrict the availability of financial aid funds, so its students could exercise the option to purchase the required course materials from alternative sources.

**A school would not be able to demonstrate that a student had a real and reasonable opportunity to purchase his or her required course materials from alternative sources if one of the following is true:**

- The required course materials are not available elsewhere (i.e., they were only available at the school), or they are not conveniently available for purchase from another vendor unaffiliated with the school;
- When financial aid is available to the school for disbursement to the student, the school does not make those funds available to the student in time to purchase the required materials from another vendor before those materials are required for academic purposes;
- The school's practices do not allow or actually discourage a student (e.g., the use of vouchers that are only good at the campus bookstore or the late disbursement of funds to students to pay for noninstitutional charges) from exercising his or her option to purchase the required course materials from another vendor; or
- The school has the student sign a statement stating that the student has the option to purchase course materials from someplace other than the school, but the school is unable to document that an option truly existed.

If the school's return policies are reasonable, consistent, and fair to all students, and students were notified, in writing, of the school's policies when they enrolled, the school may exclude documented costs for

- nonreturnable equipment, and
- returnable equipment, if not returned in good condition within 20 days of withdrawal.

**Note:** The $100 or 5% fee (whichever is less) that was excludable under the former Refund and Repayment regulations is **not** excluded in the Return of Title IV Funds calculation.

The school is responsible for demonstrating that its policy on nonreturnable equipment is reasonable, consistent, and fair to students. For example, it is not reasonable or fair to students to classify all used books or equipment as nonreturnable. A school must be able to demonstrate that there are specific circumstances that would prevent the school from selling the books or equipment to other students, Also, if the school's students are not notified in writing about the school's return policy when they enroll or the policy is not consistent with federal regulations on excludable costs, the school may not exclude the documented cost of books, supplies, and equipment from any refund calculations.

### *Applying the rules: Is this an institutional charge?*

To see how the guidelines for defining institutional charges can be applied, consider how a school would determine whether a charge for tools is noninstitutional or institutional. A student is required to purchase, by the first day of class, certain types of high quality tools for the student's program of study . The school's enrollment agreement does not contain a charge for the tools, and it does not say that the student is required to purchase the tools from the school or a vendor affiliated with the school. The required tools are available for purchase from the school and from a retailer across the street from the school. As a routine practice, the school obtains permission to credit all financial aid to students' institutional accounts, and establishes a line of credit for students at the campus bookstore so they can purchase the required tools by the first day of class. All students buy the tools at the campus bookstore and charge the purchase to their institutional accounts.

The first step would be to determine if the purchase of the tools falls under the category of expenses that are generally considered institutional charges. Although the cost of the tools is not listed as a charge in the student's enrollment agreement, the school requires the student to purchase the tools for his or her program of study. Therefore, as a general rule, the tool charges will be considered institutional charges. However under the exceptions rule, the tool charges may be considered noninstitutional if the school can document that its students had a "real and reasonable opportunity" to purchase the tools from someplace other than the school. The real and reasonable test is whether the school could demonstrate the following: (1) the tools were available for purchase elsewhere; (2) the school made financial aid available to students in time to purchase the tools from another vendor before the first day of class; and (3) the school's practices provide students with an equal opportunity to purchase the tools from the campus bookstore or the retailer across the street.

In this case, the school meets the first criterion: the tools are available at the store across the street, so an opportunity could exist. However, the school fails to satisfy the second and third criteria because the school's routine practice of crediting students' accounts with all financial aid, and extending lines of credit for purchases at the campus bookstore, does not allow its students the option of purchasing the required tools from the retailer across the street. Therefore, the only choice this school's students have is to purchase the tools at the campus bookstore. As a result, the cost of the tools must be classified as institutional charges.

### *Summary*

The following summarizes the key points for determining institutional and noninstitutional charges:

√ Institutional charges are defined as charges that a school assesses a student for educational expenses, which must be paid to the school directly.

√ A school either disburses financial aid to the student directly to pay for noninstitutional charges, or the school may, with the student's permission, credit the student's account to pay for noninstitutional charges.

√ All tuition, fees, room and board, and other charges a school assesses a student are institutional charges, unless demonstrated otherwise.

√ If a school wishes to exclude specific charges from institutional charges, it must demonstrate that the charges are either noninstitutional costs or are excludable costs.

√ An institutional charge does not have to be charged to all students or be listed as a charge in an enrollment agreement to be classified as an institutional charge.

√ All charges to a student's account are not necessarily institutional charges.

√ If a charge does not appear on the student's institutional account, it may still be an institutional charge.

√ Tuition, fees, and room and board (if contracted with the school) are always institutional charges.

√ Expenses for required course materials are institutional charges, if the student does not have a real and reasonable opportunity to purchase the required course materials from any place but the school he or she is attending.

√ For a school to classify the cost of required course materials as noninstitutional charges, it must be able to substantiate that: (a) the required course materials were available for purchase at a relatively convenient location unaffiliated with the school; and (b) the school made financial aid funds available to students in a timely manner, so its students could exercise the option to purchase the required course materials from alternative sources.

√ *Excludable costs* are costs a school may exclude from total institutional charges, such as an administrative fee, documented cost of unreturnable equipment and the documented cost of returnable equipment if not returned in good condition within 20 days of withdrawal.

√ *Noninstitutional charges* include: charges for any required course materials that a school can document are noninstitutional because the student had a *real and reasonable opportunity* to purchase them elsewhere; charges to a student's account for room charges that are collected by the school but are *passed through* to an unaffiliated entity; charges to a student's account for group health insurance fees, (if the insurance is required for all students and the coverage remains in effect for the entire period for which the student was charged, despite the student's withdrawal); and charges to a student's account for discretionary educationally related expenses (e.g., parking or library fines, the cost of athletic or concert tickets, etc.).

## *Step 6: Return of funds by the school*

### Order of return of Title IV funds

A school must return Title IV funds to the programs from which the student received aid during the payment period or period of enrollment as applicable, in the following order, up to the net amount disbursed from each source:

- Unsubsidized Federal Stafford loans
- Subsidized Federal Stafford loans
- Unsubsidized Direct Stafford loans (other than PLUS loans)
- Subsidized Direct Stafford loans
- Perkins loans
- Federal PLUS loans

- Direct PLUS loans
- Federal Pell Grants for the payment period for which a return of funds is required
- Federal Supplemental Educational Opportunity Grants (FSEOG) for the payment period for which a return of funds is required
- Other assistance under this Title for which a return of funds is required (e.g., LEAP)

### Timeframe for the return of Title IV funds.

A school has 30 days from the date the institution determines that the student withdrew to return all unearned funds for which it is responsible.

## *Step 7: Initial amount of unearned Title IV aid due from the student*

The statute specifies that a student is responsible for all unearned Title IV Program assistance that the school is not required to return. The initial amount of unearned Title IV aid due from the student (or parent, for PLUS loan funds) is determined by subtracting the amount returned by the school from the total amount of unearned Title IV funds to be returned. This is called the *initial* amount due from the student because a student will not have to return the full amount of any grant repayment due; therefore, the student may not have to return the full initial amount due.

## *Step 8: Return of funds by the student*

The initial Title IV grant overpayment owed by the student is reduced by 50%. The student is obligated to return funds to the Title IV fund that it was received from and in the same order that is required for schools.

The student (or parent, if a Federal PLUS loan) returns funds to the loan programs in accordance with the terms of the loan, and to grant programs as an overpayment. In other words, the student will repay any unearned loan funds in the same manner that he or she will be repaying earned loan funds.

Grant overpayments are subject to

1. full and immediate repayment to the institution;
2. repayment arrangements satisfactory to the school; or
3. overpayment collection procedures negotiated with ED Collections.

## GRANT OVERPAYMENTS

The applicable regulations require that students repay only 50 percent of the initial amount of any Title IV grant overpayments. The overpayments are reduced by half of the **initial repayment amount**, not by half of the total grants students received.

Repayment terms for students who owe Title IV grant overpayments were established to ensure that students who could not immediately repay their debt in full had the opportunity to continue their eligibility for Title IV funds. Students who owe overpayments as a result of withdrawals generally will retain their eligibility for Title IV funds for a maximum of 45 days from the earlier of

- the date the school sends the student notice of the overpayment, or
- the date the school was required to notify the student of the overpayment.

Within 30 days of determining that a student who withdrew must repay all or part of a Title IV grant, a school must notify the student that he or she must repay the overpayment or make satisfactory arrangements to repay it. In its notification a school must inform the student that:

1. The student owes an overpayment of Title IV funds.
2. The student's eligibility for additional Title IV funds will end if the student fails to take positive action by the 45th day following the date the school sent or was required to send notification to the student.
3. There are three positive actions a student can take to extend the student's eligibility for Title IV funds beyond 45-days:
   a. the student may repay the overpayment in full to the school; or
   b. the student may sign a repayment agreement with the school; or
   c. the student may sign a repayment agreement with the Department.

Clarification

If no positive action is taken by a student during the 45-day period, the school should report the overpayment to NSLDS immediately after the 45-day period has elapsed. Because making this change in the NSLDS system is a simple process, we expect an institution will complete it within a few days after the end of the 45-day period.

4. If the student fails to take one of the positive actions during the 45-day period, the student's overpayment will be reported to the Department and referred to the Department for collection.

5. The student should contact the school to discuss his or her options.

## Examples of the relationship between the date of notification and the expiration of the 45-day period

### *Example 1 - A school sends notification to a student within the 30 days allowed.*

If a school sends notification to a student within the 30 days allowed, the 45-day period begins on the day after the school sends the notification to the student. If a school determines on August 20th that a student withdrew and owes a repayment and the school sends notification to the student on September 1st (within the 30 days allowed), then the first day of the 45-day period is September 2nd. The 45th day and last day of the student's eligibility for Title IV funds is October 16th.

### *Example 2 - A school fails to notify the student or notifies the student after the 30 days allowed.*

If the school fails to notify the student or notifies the student after the 30 days allowed, the 45-day period begins on the day after the end of the 30-day period (the date by which the school should have sent the notification to the student.). If a school determines on August 20th that a student who withdrew on July 8th owes a repayment, the 30th day following August 20th and the first day of the 45-day period is September 19th. The 45th day, last day of the student's eligibility for Title IV funds, is November 3rd. If a student agrees to a repayment arrangement and then fails to meet the terms of that arrangement, the student's eligibility ends as of the date the student fails to comply with the terms of the repayment arrangement.

Note: The Return of Title IV Funds software will identify an ending date for the 45-day period that is one day earlier than the date a financial aid administrator would arrive at if the aid administrator performed the calculations by hand.

## *Student overpayments less than $25*

Clarification

If a student owes a grant overpayment as a result of a withdrawal, the student does not have to repay the grant overpayment if the initial amount that the student is responsible for repaying (after the 50% reduction) is less than $25. An institution should neither report to NSLDS or refer to SFA's Student Management Collections (ED Collections) an Amount for Student to Return (Step 8, line 5 or 6, in the return to Title 4 funds calculation) that is less than $25.

If an institution is currently holding an overpayment resulting from a withdrawal for which the original amount (after the 50% reduction) was less than $25, the school should delete the overpayment in NSLDS using the instructions provided in Dear Colleague Letter GEN-98-14. Please note that this provision applies only when the original overpayment amount (Step 8, line 5 or 6) is less than $25. **An overpayment for which the original amount was $25 or more that has a current balance of less than $25 may not be written off.**

**This provision does not apply to funds that a school is required to return.** A school must return the full amount owed to any Title IV program that the school is responsible for returning. However, because a school may round an amount to be returned to a Title IV program to the nearest dollar, a school would not have to return amounts of less than fifty cents.

The 50% reduction always applies to the repayment of grant funds for which the student is responsible, regardless of who actually returns the funds. Therefore, if an institution chooses to return all or a portion of a grant overpayment that otherwise would be the responsibility of the student to return, the 50% grant protection still applies. If an institution returns a grant overpayment for a student, the student would no longer be considered to have a Title IV grant overpayment and as such no reporting to either NSLDS or to ED Collections is required. This would be true whether the institution simply returned the overpayment for the student or returned the overpayment and created a debit on the student's school account.

Consider an example in which a school chooses to pay a grant overpayment on behalf of a student who withdrew and create a debit on the student's school account. Once the overpayment has been repaid by the institution there is no Title IV grant overpayment due from the student. If the student refuses to repay the institution, the debt cannot be referred to the Department for collection.

A school is never required to enter into a repayment agreement with a student rather; a school may refer an overpayment to the Department at any time **after** the student has had the opportunity to pay off the overpayment in full to the school. However, if a school reports a student overpayment (for which a student has not negotiated repayment arrangements) to NSLDS before the 45-day period has elapsed, the student will appear to be ineligible for Title IV aid. Since students retain their eligibility for 45 days, schools should provide students with every opportunity to repay their debt or negotiate repayment arrangements before reporting it to NSLDS and referring it to Student Credit Management Collections (ED Collections).

**Important:** ED Collections is unable to respond to a student-initiated request to negotiate a repayment arrangement until a school has referred the student's account for collection. In addition, ED Collections uses the information about the student in the NSLDS while conversing with a student. In order to ensure a student overpayment has been reported and referred to ED, when the school is communicating with a student about making repayment arrangements with ED, the school should make it clear that **the student should contact the school before contacting the Department**.

## *Accepting payments from students*

If a school receives a payment for an overpayment that has not been referred to Student Credit Management Collections, the school should **NOT** send the payment to ED Collections.

If through its Return of Title IV Funds calculations a school determines that a student has received an overpayment of Pell funds, the school should reduce the student's award (by entering a negative disbursement) through the RFMS system and adjust its institutional ledgers and the student's account. *Initially*, schools should report through RFMS (by entering a negative disbursement) only the Amount of Unearned Title IV Aid due from the **school**. The school's GAPS auhorization will be reduced by the amount the school must return and the school's account will stay in balance. Subsequently, a school that has made repayment arrangements with a student should report in RFMS (by entering a negative disbursement) any payments made to the school by the student.

If through its Return of Title IV Funds calculations a school determines that a student has received an overpayment of FSEOG funds, the school should adjust its institutional ledgers, financial aid records, and the student's account by subtracting the amount the school must return (the FISAP filed for the year will reflect the net award to the student). If a student makes a payment on an FSEOG overpayment made in the **current award year**, the school should deposit the payment in its *federal funds account*, and award the funds to other needy students. If the school collects an overpayment of an FSEOG for an award made in a **prior award year**, the funds recovered should be returned to the Department using GAPS procedures. Payments should be applied to the award year in which the recovered funds were awarded.

### Returning Pell Funds Repaid by a Student When the Student Has Made Repayment Arrangements with the School

*To return current year Pell funds repaid by a student, a school enters (in RFMS) a negative disbursement for the amount of the payment, and deposits the funds in its Pell account.*

*If a student makes a payment on a previous years Pell overpayment, a school makes the aforementioned RFMS entry, and returns the funds to the Department using the same procedures the school follows when making other GAPS returns.*

## *Notifying the Department*

Repayment agreements with the Department will include terms that permit students to repay overpayments while maintaining their eligibility for Title IV funds. Schools are encouraged to negotiate similar repayment agreements with students. However, schools' repayment arrangements with students must provide for complete repayment of the overpayments within two years of the date of the institutions' determination that the students withdrew.

There are exceptions to the recommendation that school's waiting the full 45 days before reporting a student overpayment through NSLDS. If during the 45-day period a student indicates that he or she cannot repay his or her debt in full and wishes to negotiate a repayment agreement with the Department, the school should immediately report the overpayment to NSLDS **and** refer the overpayment to ED Collections. Likewise, if a student contacts a school that will not be offering institutional repayment agreements and indicates that he or she cannot pay the overpayment within the 45 days, the school should immediately report the overpayment to NSLDS **and** refer the overpayment to ED Collections. *So that ED Collections will have time to receive and record an overpayment before a student contacts ED Collections, a school should tell a student to wait ten days before contacting ED Collections.*

**After a school has reported and referred a student's overpayment,** the school should provide the student with the phone number, e-mail, and postal address for ED Collections. A student can contact ED Collections by calling 1-800-621-3115 or by sending an e-mail to

DCS_HELP@ed.gov

A student may also write ED Collections at the following address:

U.S. Department of Education
Student Financial Assistance Programs
P.O. Box 4222
Iowa City, Iowa 52245

**NSLDS Cites**
*Dear Colleague Letter GEN-98-14, July 1998; The NSLDS Training Guide.*

## *Reporting and referring overpayments*

Referring overpayments for collections is a separate process from reporting overpayments to NSLDS. *Reporting* is the process of creating within NSLDS a record of a student's overpayment. *Referring* is the process of turning over a student's debt to Student Credit Management Collections (ED Collections). **Students who pay their debts in full during the 45-day period should neither be reported to NSLDS nor referred for collection.**

A school reports overpayments in the NSLDS on-line. A school sends referrals to ED Collections through the U.S. Mail. If a student who owes a repayment of a Title IV grant calls ED Collections before ED Collections has received and recorded the student's overpayment, ED Collections will examine the student's record in the NSLDS. If a school has reported the overpayment to NSLDS correctly, ED Collections will inform the student that the overpayment is being processed and that the student should call back in ten days for further information. If a student calls ED Collections before a school has reported the student's overpayment to the NSLDS, ED Collections will

**Pell Award After Return of Funds and Transfer to a New School**

*Consider a student who is eligible for Federal Pell Grant funds and who transfers from one school (school A) to another school (school B) within the same award year. Before paying any Pell funds to the student, school B must determine the percentage of eligibility remaining to the student. After transferring, a student's remaining Pell Grant eligibility during an award year is equal to the percentage of the student's* ***Scheduled Award*** *that remains unused times the student's scheduled award at the new school. (A "Scheduled Award" is the amount of Federal Pell Grant funds a student with a specific EFC and COA would receive in an award year if he or she* find no record of the overpayment and will tell the student to contact the school to resolve the discrepancy.

A student who does not take positive action during the 45-day period becomes ineligible for Title IV funds on the 46th day from the earlier of (1) the date the school sends a notification to the student of the overpayment; or (2) the date the school was required to notify the student of the overpayment. The student will remain ineligible until the student enters into a satisfactory repayment agreement with the Department. An overpayment resulting from a student's withdrawal remains an overpayment until it is repaid in full. Though a student may regain Title IV eligibility by negotiating and satisfying the requirements of a satisfactory payment arrangement, the information on the student's NSLDS account will continue to reflect the status of the overpayment until the debt is repaid in full.

If a school enters into a repayment arrangement with a student who owes an overpayment, the school should immediately report the repayment arrangement using the on-line NSLDS screens. The school should report the status (IND field) of an overpayment for which it has entered a repayment agreement as "S." After the information is reported to the NSLDS, any future output from the CPS (SARs and ISIRs) will show that the student owes a repayment of a Title IV grant and that the student has negotiated a satisfactory repayment arrangement with the school.

As long as the student fulfills his or her commitment repayment under the repayment arrangement, the NSLDS overpayment status of "S" will indicate that, though the student owes an overpayment, the student remains eligible for Title IV funds. If at any time a student fails to comply with the terms of the student's agreement to repay, immediately the school must update the student's overpayment status (IND field) to "Y." From that point on the NSLDS will inform schools that the student is not eligible for Title IV funds.

**A school must refer to the Department:**

1. a student who does not satisfy the requirements of his or her repayment agreement with the school;
2. a student who fails to contact the school during the 45-day period; and
3. a student who fails, during the 45-day period, to pay his or her overpayment in full or enter into a repayment arrangement.

If a school is referring to ED Collections a student overpayment previously reported to NSLDS, the school must also update the information previously reported to NSLDS by changing the source field from "SCH" to "TRF". If a school is referring a student who has failed to satisfy the terms of his or her repayment agreement, the school should also change the status code (IND field) from "S" to "Y." If a school is referring for collection a student **not** previously reported

*attends full-time for the entire academic year. An "Annual Award" is the amount of Federal Pell Grant funds a student with a specific EFC and COA would receive in an award year based on the "Disbursement Schedule" appropriate to his or her enrollment status.)*

*School B may pay the student a Pell Grant only for that portion of an academic year in which the student is enrolled and in attendance at school B. The grant must be adjusted, as necessary to ensure that the funds received by the student for the award year do not exceed the student's scheduled award for that award year.*

*The award for each payment period is calculated using the (full) Scheduled Award. The student receives a full award until the student has received 100% of the student's remaining eligibility. This avoids a school having to ration the remaining amount by splitting it evenly across the remaining terms.*

*To calculate a transfer students' remaining eligibility, School B must first determine what percentage of the Scheduled Award the student used at School A. On the student's current ISIR, in a section headed* ***200X – 200X Pell Payment Data****, school B will find an entry for* ***% Sch. Used****. School B subtracts the percentage listed under "% Sch. Used" from 100%. The remainder is the unused percentage of the student's scheduled award – the percentage the student may receive at school B. (One uses percentages rather than dollars because a transfer student may have different scheduled awards at the two schools, and using percentages rather than dollars adjusts for this possible difference.) School B then multiplies the percent of eligibility remaining times the scheduled award at the new school. The result is the maximum amount of Federal Pell Grant funds the student may receive at school B during the balance of the award year.*

*__Note__: Following the appropriate procedures relative to the figure reported in "% Sch. Used" will ensure that a transfer student does not receive more than 100% of the student's scheduled award. Therefore, school B may ignore the actual grant and overpayment amounts from school A in school B's calculations.*

to NSLDS, the school must report the account to NSLDS as a referred overpayment and enter "TRF" as the initial source and "Y" as the status (IND field).

To refer student overpayments for collection, schools should use a format similar to the one found at the end of this chapter and send the form to the address at the bottom of that page. Each referral must be typed or printed and must be submitted on school letterhead. **In order to avoid creating a double record for a single overpayment, the school must populate its Overpayment Referral Form, *Dates of Disbursements*, with the exact same dates the school used when it created the NSLDS record.** Once ED Collections has accepted a referred student overpayment, ED Collections will transmit the information to NSLDS and "EDR" will replace "SCH" as the appropriate contact for information about the overpayment.

## Accepting payments on referred overpayments

A school may continue to accept payment on a Title IV grant overpayment after the overpayment has been referred to the Department. If a school accepts a check from a student made out to the Department the school must:

1. note the student's name and SSN on the check;
2. indicate that the payment is for an overpayment of a Title IV grant; and
3. forward the payment to ED Collections at

U.S. Department of Education
National Payment Center
P.O. Box 4169
Greenville, Texas 75403-4169

If a school accepts a cash payment from one or more students who owe overpayments, the school should write its own check to the Department and attach a letter indicating that the check is for a Title IV Grant overpayment. The school must include in its letter a roster that includes, for each student who made a payment, the student's name, social security number, and amount paid.

### Example of Calculating a Pell Award After Return and Transfer

*On August 21, 2000, Trillian Prefect enrolled at Milliways Community College (MCC). After just two weeks, Trillian decided that she preferred studying purely technical subjects. She withdrew from MCC, and on September 5, 2000 began studying robotics at Vogon Technical Training Center (VTTC).*

*When the financial aid officer at VTTC examined Trillian's 2000-2001 ISIR, he found the following entry:*

| | |
|---|---|
| *%Sch.Used: 10.0* | *As Of: 09/01/2000* |
| *Pell Verification* | *EFC: 0* |

*The aid officer subtracted the 10% used previously from 100% and found that the percentage of Trillian's Scheduled Award that remained unused was 90%. Therefore, Trillian was eligible to receive 90% of her scheduled award during the balance of the award year. The costs at VTTC are much higher than those at MCC. Trillian's scheduled award at VTTC was $3,750.00.*

*The aid officer performed the required multiplication and determined that Trillian could receive as much as $3,375.00 (.90 X 3,750 = 3,375) if she remained enrolled at VTTC for the balance of the year.*

*During the first semester, Trillian received $1,875 (3750/2 = 1,875) in Pell funds. However, in the second semester, Trillian could only receive funds until her total reached $3,375. Therefore, for that semester, she could only receive $1,500 (3,375 - 1,875 = 1,500).*

# Case Studies

## CASE STUDY 1: PENNY JONES

**Calculating the return of Title IV funds for a student attending a two-year community college (semester) and receiving grants (partially disbursed)**

### *Learning Objectives*

Learn to complete Steps 1 – 4 of the Worksheet *Treatment of Title IV Funds when a Student Withdraws from a Credit Hour Program,* and be able to:

- identify the basic information needed to complete the worksheet, including the withdrawal date and date of the institution's determination that the student withdrew
- calculate the percentage of the period the student completed
- calculate both the percentage and the amount of Title IV aid earned by the student
- determine either that the student is due a post-withdrawal disbursement (PWD) of Title IV aid or that Title IV aid must be returned
- determine the amount of the PWD or return as well as the additional steps required

**SCHOOL PROFILE**

Everyone Should Have an Education Community College is a two-year, public, residential, credit-hour institution

| | |
|---|---|
| Academic Year/Program | 2 semesters<br>32 weeks |
| Period | 16 weeks<br>110 calendar days |
| Period Start Date | August 23 |
| 5 Consecutive Day Break | No (no Sat. – Sun. classes) |
| Required to Take Attendance | No |
| Method for Matching FSEOG | Fund specific |

### STUDENT PROFILE

Penny Jones is a first-year student who was home-schooled in Virginia. Charges to her account for the first semester are as follows:

| | | |
|---|---|---|
| Tuition and fees | $ | 1,000.00/16 week semester |
| Room and Board | $ | 2,250.00/16 week semester |
| Books and Supplies | $ | 400.00/16 week semester |
| Health Insurance | $ | 250.00/academic year |

Balances remaining on Penny's account include:

| | | |
|---|---|---|
| Health Insurance | $ | 250.00 |
| Books & Supplies | $ | 400.00 |
| Room & Board | $ | 1,250.00 |

| | |
|---|---|
| School Authorized to Credit Account for Other Charges: | Yes (all charges) |

Penny's financial aid package included the following annual awards:

| | | |
|---|---|---|
| Pell Grant | $ | 3,125.00 |
| FSEOG | $ | 1,500.00 |
| State Grants | $ | 1,000.00 |
| Institutional Awards | $ | 1,500.00 |

## Discussion

On the first day of the fall semester, August 23, Penny received the following disbursements to her student account:

| | |
|---|---|
| Pell Grant | $ 0.00 |
| FSEOG | $ 750.00 |
| State Grants (not funded by LEAP) | $ 500.00 |
| Institutional Awards | $ 750.00 |

Although Penny is grateful for the assistance, she is concerned about how her total costs for the 15 credit hours she is taking this semester and her room and board are going to be covered:

| | |
|---|---|
| Tuition and Fees | $1,000.00 |
| Room and Board | $2,250.00 |
| Health Insurance | $ 250.00 |
| Books voucher good only at ESHECC campus bookstore | $ 400.00 |

On October 8, Penny came by your office to advise that she doesn't think she is doing very well and is considering dropping out prior to November 1, the last day to withdraw from classes without academic penalty. To help her make a decision, she requests information on the withdrawal process. You are fairly certain that Penny is having a hard time adjusting to college life and want to encourage her to hang in until the end of the semester, December 10. However, because you're in the midst of trying to resolve your problems reporting Pell origination records (so that you then can make Pell disbursements, including Penny's $1,562.50 disbursement), you don't have time at the moment to talk to her. You ask her to set an appointment to see you the following week, on October 13.

> When Penny comes to see you on October 13, she confesses that the last class she attended was on September 30. Because she doesn't see how she can get caught up on the work she's missed, she is adamant about withdrawing, so you give her instructions on completing the college's official withdrawal process and advise her where she can get the appropriate form. Finally, you remind her that the school's policy is that the date of withdrawal is the date the student turns in the signed form (which she did on October 15).

Let's review some basic information about Penny as well as our learning objectives for this case. Penny attended a two-year community college, which was on the semester system. Students earned academic credits based on credit hours taken. Before withdrawing, Penny received her FSEOG disbursement, but not her Pell Grant.

The first thing we'll need to do is to decide on the date of the school's determination that Penny withdrew. Then, we'll complete Step 1: Student's Title IV Aid Information, which includes:

- Title IV aid disbursed
- Title IV aid disbursed plus Title IV aid that could have been disbursed

## *Solution*

The date of the institution's determination is the date you were advised by Penny that she had decided to withdraw. On the earlier date, October 8, she was only thinking about withdrawing. Date of the institution's determination that the student withdrew = October 13.

### Step 1: Student's Title IV Aid Information

A. Although Penny also received disbursements of state and institutional aid, only Title IV aid is considered in the return of funds calculation. Also, because Penny's school uses the fund-specific method (depositing the institutional match into the school's FSEOG account), the nonfederal share is used in the calculation. Title IV aid disbursed = $750.00.

| | |
|---|---|
| FSEOG | $750.00 |

B. Because of your problems reporting Pell origination records, Penny's Pell Grant had not been disbursed yet. But, she was eligible for the disbursement, so the amount of the Pell Grant that could have been disbursed is included in the total. Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $2,312.50.

| | |
|---|---|
| SEOG | $ 750.00 |
| Pell Grant | $1,562.50 |

## *Step 2: Percentage of Title IV Aid Earned*

1. Withdrawal date = October 13

   **Note:** Since ESHECC is not required by an outside entity to take attendance, the withdrawal date is the date Penny provided official notice of intent to withdraw—October 13. (Note that the school's policy that the withdrawal date is the date the student turns in the signed withdrawal form—which she did on October 15—is superseded by federal requirements for a student receiving Title IV aid.) Although Penny stopped attending classes on September 30, she didn't notify the school (begin the process) until October 13. Remember when she came to see the FAO on October 8, she was only thinking about withdrawing. Note that the school could have documented a last date of attendance at an academically-related activity and used that as her withdrawal date if it so chose.

2. Payment period start date = August 23

3. Payment period end date = December 10

4. Percentage of payment period completed:

   - Since the student attended a credit-hour school, the percentage of aid completed is calculated by dividing the number of calendar days completed by the total number of calendar days in the payment period. Number of calendar days completed in payment period = 52 calendar days

   - Because the semester does not include a scheduled break of 5 or more consecutive days, all of the calendar days in the period from August 23 to December 10 are counted. Number of calendar days in payment period = 110 calendar days

   - 52 days / 110 days = .4727, rounded to .473, or 47.3%. Percentage of payment period completed = 47.3%

**C.** Percentage of payment period completed (47.3%), up to and including 60%; otherwise, if greater than 60%, then 100%. Percentage of Title IV aid earned = 47.3%.

## Step 3: Amount of Title IV Aid Earned by the Student

**D.** 47.3% (% of Title IV aid earned from item C) X $2,312.50 (total Title IV aid disbursed plus Title IV aid that could have been disbursed from item B) = $1,093.812, rounded to $1,093.81. Amount of Title IV aid earned by the student = $1,093.81.

## Step 4: Total Title IV Aid to be Disbursed or Returned

**E.** Because the total aid earned (item D) is greater than the total aid disbursed (item A), Penny is due a post-withdrawal disbursement. $1,093.81 (item D) – $750.00 (item A) = $343.81. Post-withdrawal disbursement = $343.81.

If a post-withdrawal disbursement is due the student, the next step is to complete the Post-Withdrawal Disbursement Tracking Sheet.

**F.** Title IV aid to be returned = N/A

## Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

**Student's Name** *Penny Jones* **Social Security Number** *Case Study 1*

**Date Form Completed** __/__/__ **Date of the institution's determination that the student withdrew** *10/13/*

Period used for calculation (check one) v ☐ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

**STEP 1: Student's Title IV Aid Information**

| | Net Amount Disbursed | Net Amount That Could Have Been Disbursed | | Amount Disbursed | Amount That Could Have Been Disbursed |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | | 5. Pell Grant | | *$1,562.50* |
| 2. Subsidized FFEL/Direct Stafford Loan | | | 6. FSEOG | *$750.00* | |
| 3. Perkins Loan | | | 7. Other Title IV programs* | | |
| 4. FFEL/Direct PLUS | | | *Do not include FWS | | |

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ *750.00*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ *2,312.50*

**STEP 2: Percentage of Title IV Aid Earned**

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

- Withdrawal date *10/13/* Payment period/period of enrollment start date *8/23/* end date *12/10/*
- Percentage of payment period or period enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period or enrollment (exclude scheduled breaks of 5 days or more AND days that a student was on approved leaves of absence).

*52* (completed days) ÷ *110* (total days) = *47.3* %

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C. **C** *47.3*%

**Step 3: Amount of Title IV Aid Earned by the Student**

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

*47.3*% (Box C) X $ *2,312.50* (Box B) = **D** $ *1,093.81*

**Step 4: Total Title IV Aid to be Disbursed or Returned**

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement***. Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

$ *1,093.81* (Box D) – $ *750.00* (Box A) = **E** $ *343.81*

F. ***Title IV aid to be returned***. Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

____ (Box A) – ____ (Box D) = **F** $ .

## Post-Withdrawal Disbursement Tracking Sheet

**Student's Name** *Penny Jones* **Social Security Number** *Case Study 1*

### Amount of Post-Withdrawal Disbursement

A. Amount from Box E of "Treatment of Title IV Funds When a Student Withdraws" Worksheet **A** $ *343.81*

### Post-Withdrawal Disbursement Credited to Student's Account

B. Total outstanding charges on student's account **B** $ *1,900.00*

C. Total amount of post-withdrawal disbursements credited to student's account

- Amount of post-withdrawal disbursement credited for tuition, fees, room and board (if student contracts with the institution) $ *343.81*
- Amount of post-withdrawal disbursement credited for other current charges + $ *0.00*
- Amount of post-withdrawal disbursement credited for minor prior year charges + $ *0.00*

Total Amount Credited to Account **C** $ *343.81*

D. Student and/or parent authorization to credit account for other current charges or minor prior year charges (if necessary) obtained on __/__/__

E. If a post-withdrawal disbursement of loan funds is credited to account, date of notification to student and/or parent __/__/__

### Post-Withdrawal Disbursement Offered to Student/Parent

F. Total amount of post-withdrawal disbursement (Box A) – amount of post-withdrawal disbursement credited to student's account (Box C) = Total amount to offer to student/parent **F** $ *0.00*

G. Notification sent to student and/or parent on __/__/__

H. ☐ Response received from student/parent on __/__/__

☐ Response not received

I. Amount accepted **I** $ .

J. Accepted funds sent on __/__/__

### Post-Withdrawal Disbursement Made From

| | | | |
|---|---|---|---|
| Pell Grant | *$343.81* | Subsidized FFEL/Direct Stafford Loan | |
| FSEOG | | Unsubsidized FFEL/Direct Stafford Loan | |
| Other Title IV programs (grants) | | Perkins Loan | |
| | | FFEL/Direct PLUS | |
| | | Other Title IV programs (loans) | |

## CASE STUDY 2: PENNY JONES

**Treatment of other aid consisting of federal funds when calculating the return of Title IV funds.**

### *Discussion*

Penny is the same student as in Case Study 1. The differences to the scenario are that Penny lives at home, all of her Title IV aid was disbursed prior to her withdrawal, her $500 state grant consists of 50% LEAP funds, and the fall semester has a scheduled break that runs Monday, October 18, through Friday, October 22.

All of Penny's Title IV aid, including her Pell Grant, was disbursed prior to her withdrawal from college (no change in the withdrawal date). In addition, she's not residing on campus, the $500.00 state grant she received consisted of 50% LEAP funds, and the semester has a fall break that runs October 18 through October 22.

Please complete Steps 1-4 on your own.

### *Solution*

Date of the institution's determination that the student withdrew = October 13

### Step 1: Student's Title IV Aid Information

A. Because the state grant consists of 50% LEAP funds, it must be included in the calculation. Remember, aid consisting in any part of identified Title IV funds (e.g., LEAP) is included in the calculation. Title IV aid disbursed = $2,812.50.

| | |
|---|---|
| Pell Grant | $1,562.50 |
| FSEOG | $ 750.00 |
| State Grant | $ 500.00 |

B. All her aid was disbursed. Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $2,812.50

### Step 2: Percentage of Title IV Aid Earned

1. The withdrawal date stays the same. Withdrawal date = October 13

2. Payment period start date = August 23

3. Payment period end date = December 10

4. Percentage of payment period completed

- The number of calendar days completed remains the same. (Penny withdrew before the scheduled fall break.) Number of calendar days completed in payment period = 52 calendar days.

- Because the semester includes a scheduled break of at least five consecutive days, not all of the calendar days in the period are counted. In this situation, the break begins on Monday and ends on Friday, and there are no classes on Saturday and Sunday. So, in addition to excluding the 5-day break from the count of calendar days, we also exclude both weekends immediately preceding and following the break (in this case, a total of 9 days). Number of calendar days in payment period = 101.

- 52 days / 101 days = .5148, rounded to .515, or 51.5%. Percentage of payment period completed = 51.5%.

**C.** Percentage of Title IV aid earned = 51.5%. [Item C (51.5%) up to and including 60%; otherwise, if greater than 60%, then 100%.]

## Step 3: Amount of Title IV Aid Earned by Student

**D.** 51.5% (% of Title IV aid earned from item C) X $2,812.50 (total Title IV aid disbursed plus Title IV aid that could have been disbursed from item B) = $1,448.437, rounded to $1448.44. Amount of Title IV aid earned by student = $1,448.44.

## Step 4: Total Title IV Aid to be Disbursed or Returned

**E.** Because the total Title IV aid earned (item D) is less than the aid disbursed (item A), no post-withdrawal disbursement is due and we proceed to Item F. Post-withdrawal disbursement = N/A

**F.** Because the total aid disbursed (item A) is greater than the total aid earned (item D), Title IV aid will need to be returned. $2,812.50 (item A) – $1,448.44 (item D) = $1,364.06. Title IV aid to be returned = $1,364.06.

## Step 5: Amount of Unearned Title IV Aid due from the School

**G.** Penny was not on campus in this scenario. Institutional charges for the payment period or period of enrollment = $1,400.00

| | |
|---|---|
| Tuition and fees | $1,000.00 |
| Books and Supplies | $ 400.00 |

**H.** Subtract % Title IV aid earned (item C) from 100% (100% – 51.5% = 48.5%). Percentage of Title IV aid unearned = 48.5%

**I.** First, calculate the amount of unearned institutional charges: $1,400.00 (institutional charges from item G) X 48.5% (% Title IV aid unearned from item H) = $679.00 (no rounding needed). Amount of unearned institutional charges = $679.00

J. Then, compare the amount of Title IV aid to be returned (item F) to unearned institutional charges (item I) and enter the lesser amount for item J.

| | |
|---|---|
| Item F = | $1,364.06 |
| Item I = | $ 679.00 |

Amount of unearned Title IV aid due from the school = $679.00

## Step 6: Return of Funds by the School

No funds are returned to FSEOG and the LEAP grant, since the total Title IV aid returned does not exceed the amount of Pell funds received. Return of funds by the School:

| | |
|---|---|
| Pell Grant | $679.00 |

## Step 7: Initial Amount of Unearned Title IV Aid due from Student

K. Subtract the amount of Title IV aid that the school must return from the total amount of Title IV aid that is to be returned. $1,364.06 (item F) – $679.00 (item J) = $685.06. Initial amount = $685.06

## Step 8: Return of Funds by the Student

Initial amount to return multiplied by 50%. $685.06 X 50% = $342.53 (no rounding needed). Return of funds by the student:

| | |
|---|---|
| Pell Grant | $342.53 |

## Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

**Student's Name** *Penny Jones* **Social Security Number** *Case Study 2*

**Date Form Completed** __/__/__ **Date of the institution's determination that the student withdrew** *10 / 13 /*

Period used for calculation (check one) v ☐ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

### STEP 1: Student's Title IV Aid Information

| | Net Amount Disbursed | Net Amount That Could Have Been Disbursed | | Amount Disbursed | Amount That Could Have Been Disbursed |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | | 5. Pell Grant | *$1,562.50* | |
| 2. Subsidized FFEL/Direct Stafford Loan | | | 6. FSEOG | *$ 750.00* | |
| 3. Perkins Loan | | | 7. Other Title IV programs* | *$ 500.00* | |
| 4. FFEL/Direct PLUS | | | *Do not include FWS. | | |

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** *$ 2,812.50*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** *$ 2,812.50*

### STEP 2: Percentage of Title IV Aid Earned

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

- Withdrawal date *10 / 13 /* Payment period/period of enrollment start date *8 / 23 /* end date *12 / 10 /*
- Percentage of payment period or period enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period or enrollment (exclude scheduled breaks of 5 days or more AND days that a student was on approved leaves of absence).

| | | | | |
|---|---|---|---|---|
| *52* | ÷ | *101* | = | *51.5* % |
| completed days | | total days | | |

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C.

**C** *51.5%*

### Step 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

| | | | | | |
|---|---|---|---|---|---|
| *51.5%* | X | *$ 2,812.50* | = | D | *$ 1,448.44* |
| Box C | | Box B | | | |

### Step 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement***. Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

| | | | | | |
|---|---|---|---|---|---|
| | – | | = | E | $ . |
| Box D | | Box A | | | |

F. ***Title IV aid to be returned***. Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

| | | | | | |
|---|---|---|---|---|---|
| *$2,812.50* | – | *$1,448.44* | = | F | *$ 1,364.06* |
| Box A | | Box D | | | |

**Student's Name** *Penny Jones* **Social Security Number** *Case Study 2*

### STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

|  |  |  |  |  |  |
|---|---|---|---|---|---|
| Tuition and Fees | *$1,000.00* | Board |  | Other |  |
| Room |  | Other | *$400.00* | Other |  |

Total Institutional Charges **G** $ *1,400.00*

H. Percentage of Title IV aid unearned (100% - Box C) **H** *48.5%*

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

*$1,400.00* (Box G) X *48.5%* (Box H) = **I** $ *679.00*

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $ *679.00*

### STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

|  | Amount for School to Return |  | Amount for School to Return |
|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan |  | 5. Pell Grant | *$679.00* |
| 2. Subsidized FFEL/Direct Stafford Loan |  | 6. FSEOG |  |
| 3. Perkins Loan |  | 7. Other Title IV programs |  |
| 4. FFEL/Direct PLUS |  |  |  |

### STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV due from the school (Box J) from the amount of Title IV to be returned (Box F).

*$1,364.06* (Box F) – *$679.00* (Box J) = **K** $ *685.06*

### STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

|  | Amount for Student to Return |  | Initial Amount to Return |  | Amount for Student to Return |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan* |  | 5. Pell Grant | *$685.06* | x 50% = | *$342.53* |
| 2. Subsidized FFEL/Direct Stafford Loan* |  | 6. FSEOG |  | x 50% = |  |
| 3. Perkins Loan* |  | 7. Other Title IV programs (x 50% for grant funds) |  |  |  |
| 4. FFEL/Direct PLUS* |  |  |  |  |  |

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

# CASE STUDY 3: HARRY SPRINGER

**Calculating the return of Title IV funds for a student who received loans and LEAP funds and is attending a proprietary (clock hour) school**

## *Learning Objectives*

- Calculate ratio of completed clock hours to scheduled clock hours
- Calculate percentages of Title IV aid earned and unearned based on clock hours
- Determine withdrawal date for student who did not provide notification of intent to withdraw

School Profile

Quality Tech School (QTS) is a proprietary, clock-hour institution

| | |
|---|---|
| Academic Year/Program: | 900 clock hours<br>30 weeks |
| Period: | 450 clock hours<br>15 weeks |
| Period Start Date: | September 7 |
| Period End Date: | December 22 |
| 5 Consecutive Day Break: | No |
| Taking Attendance Required: | Yes |
| Method for Matching FSEOG: | Fund-specific |

### STUDENT PROFILE

Harry Springer enrolled at QTS for a fall term consisting of 450 clock hours over 15 weeks. Charges to his account are as follows:

| | | |
|---|---|---|
| Tuition and Fees | $ | 1,750.00/15 week period |
| Room and Board | | (nonresidential school) |
| Books and Supplies | $ | 250.00/15 week period |
| Student Account Balance: | $ | 250.00 |

Balances remaining on Harry's account include:

| | | |
|---|---|---|
| Books and Supplies | $ | 250.00 |

School authorized to credit account for other charges: Yes (all charges)

Harry Springer was eligible for the following annual awards:

| | | |
|---|---|---|
| Net Subsidized Stafford Loan | $ | 2,000.00 |
| Perkins Loan | $ | 1,500.00 |
| Institutional Awards | $ | 1,000.00 |

## *Discussion*

Harry's student account was credited with both Stafford and Perkins loan disbursements for the fall period. However, the disbursement of the institutional grant was placed on hold until Harry turned in the required form. Also, Harry did not live on campus but was charged $250.00 for books, which had to be purchased at QT's campus store.

Everything seemed to be going very well for Harry—until fall break. Due to personal problems, Harry didn't return to QT, and he didn't bother to let anyone know that he was dropping out. It wasn't until you called him on November 5—to give him a last chance to turn in the institutional form still needed—that you discovered he hadn't returned after fall break (November 2-4). Upon checking with the director of the program, you verified that Harry had completed 210 of the 250 clock hours scheduled for completion on the last day he attended prior to fall break (November 1).

Using the information provided, complete the worksheet.

**Note:** QT is required to take attendance and uses the fund-specific method to match FSEOG funds. Harry withdrew without providing official notification.

Decide on the date of the school's determination that Harry withdrew, and then complete *Step 1: Student's Title IV Aid Information.*

## *Solution*

November 5 is the date you called Harry about the needed form and he told you he wasn't coming back. Date of the institution's determination that the student withdrew = November 5.

### Step 1: Student's Title IV Aid Information

**A.** Title IV aid disbursed = $1,750.00

| | |
|---|---|
| Subsidized Loan | $1,000.00 |
| Perkins Loan | $ 750.00 |

**B.** Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $1,750.00

**Note:** All Title IV aid was disbursed.

### Step 2: Percentage of Title IV aid earned

To be able to complete Step 2, we'll need to note the:

- total number of clock hours in the period = 450
- number of clock hours Harry completed = 210
- number of clock hours Harry was scheduled to complete = 250

1. November 1 is Harry's last date of attendance taken from attendance records. Withdrawal date = November 1.
2. Percentage of payment period completed
   - Calculation 1: Determine percentage of clock hours completed in the period. Divide the number of clock hours completed by the number of clock hours in the period. 210 / 450 = .4666, rounded to .467, or 46.7%. Since this percentage is less than (or equal to) 60%, proceed to Calculation 2. Clock hours completed = 46.7%.
   - Calculation 2: Determine the ratio of clock hours completed to clock hours scheduled to be completed. Divide the number of clock hours completed by the number of clock hours scheduled to be completed. 210 / 250 = .8400, rounded to .840, or 84.0%. Since this percentage is greater than 70%, calculate the percentage completed using scheduled clock hours (rather than completed clock hours). The ratio = 84.0%.
   - Determine percentage of payment period completed. 250 hours /450 hours = .5555, rounded to .556, or 55.6%.

**C.** Percentage of Title IV aid earned = 55.6%. Percentage of payment period completed (55.6%), up to and including 60%; otherwise, if greater than 60%, then 100%. (Note that the 60% threshold can't be reached using scheduled hours completed.) Percentage of payment period completed = 55.6%.

## Step 3: Amount of Title IV Aid Earned by Student

**D.** 55.6% (% of Title IV aid earned from item C) X $1,750.00 (total Title IV aid disbursed and that could have been disbursed from item B) = $973.00 (no rounding needed). Amount of Title IV aid earned by student = $973.00.

## Step 4: Total Title IV Aid to be Disbursed or Returned

**E.** Because the total Title IV aid earned (item D) is less than the aid disbursed (item A), no post-withdrawal disbursement is due and we proceed to Item F. Post-withdrawal disbursement = N/A.

**F.** Because the total Title IV aid disbursed (item A) is greater than the aid earned (item D), Title IV aid will need to be returned.. $1,750.00 (item A) – $973.00 (item D) = $777.00. Title IV aid to be returned = $777.00.

## Step 5: Amount of Unearned Title IV Aid Due from the School

**G.** Institutional charges for the payment period or period of enrollment = $2,000.00

| | |
|---|---|
| Tuition and Fees | $ 1,750.00 |
| Books and Supplies | $ 250.00 |

**Note:** The charge for books and supplies is considered an institutional charge, since they must be purchased from QT's bookstore.

**H.** Subtract % Title IV aid earned (item C) from 100% (100% – 55.6% = 44.4%). Percentage of Title IV aid unearned = 44.4%.

**I.** First, calculate the amount of unearned institutional charges. $2,000.00 (institutional charges from item G) X 44.4% (% Title IV aid unearned from item H) = $888.00 (no rounding needed). Amount of unearned institutional charges = $888.00.

**J.** Then, compare the amount of Title IV aid to be returned (item F) to unearned institutional charges (item I) and enter the lesser amount for Item J.

| | |
|---|---|
| Item F = | $777.00 |
| Item I = | $888.00 |

Amount of unearned Title IV aid due from the school = $777.00.

## Step 6: Return of Funds by the School

No Perkins funds are returned, since the total Title IV aid returned does not exceed the amount of the subsidized loan ($777.00) received.

## Step 7: Initial Amount of Unearned Title IV aid due from Student

K. Subtract the amount of Title IV aid that the school must return from the total amount of Title IV aid that is to be returned. $777.00 (item F) – $777.00 (item J) = $0.00.

## Step 8: Return of Funds by the Student

N/A

## *Questions and Answers*

Q: Under what scenario would institutional or state awards be used in calculating the return of Title IV funds?

A: Institutional awards are never included in the calculation. However, when a state grant is identified as a LEAP grant, it must be included.

Q: Since Harry did not provide notification that he was withdrawing from his clock hour program, how is the withdrawal date determined? And, since the number of clock hours completed is going to be used in the calculation, why do we need Harry's withdrawal date?

A: Harry's withdrawal date is taken from attendance records, since his school requires that attendance be taken. We need to know Harry's withdrawal date so that we can determine how many clock hours were scheduled to be completed as well as how many clock hours were completed as of the date he withdrew; as both items of information are needed to perform the calculation.

Q: What constitutes *official notification*?

A: *Official notification* is the notice that the student provides to the school that he or she is withdrawing. This can be done by following the school's prescribed policy or by providing the office(s) designated by the school with notice in writing or orally (in person, over the telephone by an individual acting on behalf of the student, or via alternative means specified by the school, such as a Web site).

## Treatment of Title IV Funds When a Student Withdraws from a Clock Hour Program

**Student's Name** *Harry Springer* **Social Security Number** *Case Study 3*

**Date Form Completed** / / **Date of the institution's determination that the student withdrew** *11 / 5 /*

Period used for calculation (check one) ☑ payment period ☐ period of enrollment

Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

### STEP 1: Student's Title IV Aid Information

| | Net Amount Disbursed | Net Amount That Could Have Been Disbursed | | Amount Disbursed | Amount That Could Have Been Disbursed |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | | 5. Pell Grant | | |
| 2. Subsidized FFEL/Direct Stafford Loan | *$1,000.00* | | 6. FSEOG | | |
| 3. Perkins Loan | *$ 750.00* | | 7. Other Title IV programs* | | |
| 4. FFEL/Direct PLUS | | | *Do not include FWS | | |

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** *$ 1,750.00*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** *$ 1,750.00*

### STEP 2: Percentage of Title IV Aid Earned

C. •Withdrawal date *11 / 1 /*

•Percentage of payment period or period enrollment completed

***Calculation 1*** – Determine the clock hours completed* in the payment period or period of enrollment divided by the total clock hours in the payment period or period of enrollment

*210* (completed hours) ÷ *450* (total hours) = *46.7* %

If this percentage is greater than 60%, enter 100% in Box C and proceed to Step 3.

If this percentage is less than or equal to 60%, proceed to Calculation 2.

***Calculation 2*** – Determine the clock hours completed* in the payment period or period of enrollment divided by the clock hours scheduled to be completed as of the date the student withdrew.

*210* (completed hours) ÷ *250* (scheduled to complete) = *84.0* %

If this amount is less than 70%, enter the percentage from Calculation 1 in Box C and proceed to Step 3. If this amount is 70% or greater, determine the clock hours scheduled to be completed as of the date the student withdrew divided by the total clock hours in the payment period or period of enrollment and enter this amount in Box C (this amount may be greater than 60%).

*250* (scheduled to complete) ÷ *450* (total hours) = *55.6* %

*Excused absences do NOT count as completed hours. **C** *55.6%*

### Step 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

*55.6%* (Box C) X *$1,750.00* (Box B) = **D** *$ 973.00*

### Step 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

**Student's Name** *Harry Springer* **Social Security Number** *Case Study 3*

## Step 4: Total Title IV Aid to be Disbursed or Returned: Continued

E. ***Post-withdrawal disbursement***. Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

| | | | | | |
|---|---|---|---|---|---|
| | – | | = | E | $ . |
| Box D | | Box A | | | |

F. ***Title IV aid to be returned***. Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

| | | | | | |
|---|---|---|---|---|---|
| *$1,750.00* | – | *$973.00* | = | F | $ *777.00* |
| Box A | | Box D | | | |

## STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

| | | | | | |
|---|---|---|---|---|---|
| Tuition and Fees | *$1,750.00* | Board | | Other | |
| Room | | Other | *$ 250.00* | Other | |

Total Institutional Charges **G** $ *2,000.00*

H. Percentage of Title IV aid unearned (100% - Box C) **H** *44.4%*

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

| | | | | | |
|---|---|---|---|---|---|
| *$2,000.00* | X | *44.4%* | = | I | $ *888.00* |
| Box G | | Box H | | | |

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $ *777.00*

## STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

| | Amount for School to Return | | Amount for School to Return |
|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | 5. Pell Grant | |
| 2. Subsidized FFEL/Direct Stafford Loan | *$777.00* | 6. FSEOG | |
| 3. Perkins Loan | | 7. Other Title IV programs | |
| 4. FFEL/Direct PLUS | | | |

## STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV due from the school (Box J) from the amount of Title IV to be returned (Box F).

| | | | | | |
|---|---|---|---|---|---|
| *$777.00* | – | *$777.00* | = | K | $ *0.00* |
| Box F | | Box J | | | |

## STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

| | Amount for Student to Return | | Initial Amount to Return | | Amount for Student to Return |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan* | | 5. Pell Grant | | x 50% = | |
| 2. Subsidized FFEL/Direct Stafford Loan* | | 6. FSEOG | | x 50% = | |
| 3. Perkins Loan* | | 7. Other Title IV programs (x 50% for grant funds) | | | |
| 4. FFEL/Direct PLUS* | | | | | |

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

# CASE STUDY 4: BILL DONAHUE

**Calculating the return of Title IV funds for a student receiving grants and attending a four-year public university (trimesters)**

## *Learning Objectives*

- Determine the withdrawal date for a student attending a school that is required to take attendance
- Review the criteria that determine if a school is required to take attendance
- Determine the effect of FWS earnings on the return of Title IV funds calculation

**School Profile**

Big State University (BSU) is a 4 year, public, residential credit hour institution.

| | |
|---|---|
| Academic Year/Program: | 3 trimesters<br>30 weeks |
| Period: | 10 weeks<br>(68 calendar days) |
| Period Start Date: | January 10 |
| Period End Date: | March 17 |
| 5 Consecutive-Day Break: | No |
| Taking Attendance Required: | Yes |
| Method for Matching FSEOG: | Fund specific |

### STUDENT PROFILE

Bill Donahue is a first-year student at BSU majoring in chemistry. Bill is living on campus and spends his free time at his FWS job in the Chemistry Department. Charges to his account are as follows:

| | | |
|---|---|---|
| Tuition and Fees | $ | 900.00/10 week trimester |
| Room | $ | 600.00/10 week trimester |
| Board | $ | 400.00/10 week trimester |
| Health Insurance<br>(required of all students and remains in effect for the entire period, even if students cease attendance) | $ | 300.00/per academic year |

Balances remaining on Bill's account include:

| | | |
|---|---|---|
| Health Insurance | $ | 258.34 |

School Authorized to Credit Account for Other Charges: Yes (all charges)

His financial aid for the academic year is:

| | | |
|---|---|---|
| Pell Grant | $ | 3,125.00 |
| SEOG | $ | 2,100.00 |
| FWS | $ | 1,800.00 |

## Discussion

Bill is not required to purchase his books and supplies from BSU. On February 10 (32 calendar days), you were advised by the Chair of the Chemistry Department that Bill was suspended for the rest of the academic year (it appears that he was spending his FWS hours on his own "special projects" in the Chemistry lab). Upon checking with his professors, you determined that his last date of class attendance was February 8 (30 calendar days). Prior to this incident, Bill's student account had been credited for the term with:

| | |
|---|---|
| Pell Grant | $1,041.67 |
| SEOG | $ 700.00 |
| FWS | $ 200.00 |

Using the information provided, complete the worksheet.

## Solution

Date of the institution's determination that the student withdrew = February 10.

## Step 1: Student's Title IV Aid Information

**A.** Remember that, although disbursed, the FWS earnings ($200.00) are never included in the calculation. In addition, we use 100% of the FSEOG funds awarded for the semester, since BSU uses the fund specific method of matching FSEOG funds. Title IV aid disbursed equals $1,741.67

| | |
|---|---|
| Pell Grant | $1,041.67 |
| FSEOG | $ 700.00 |

**B.** Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $1,741.67

## Step 2: Percentage of Title IV Aid Earned

1. BSU requires that attendance be taken. Therefore, Bill's date of withdrawal is taken from attendance records, which indicated that February 8 was his last date of attendance. Withdrawal date = February 8.

2. Payment period start date = January 10

3. Payment period end date = March 17

4. Date of institution's determination that Bill withdrew = February 10.

5. Percentage of payment period completed

- Number of calendar days completed in payment period = 30 calendar days

- Number of calendar days in payment period = 68 calendar days

- 30 days / 68 days = .4411, rounded to .441, or 44.1%. Percentage of payment period completed = 44.1%

**C.** Item C up to and including 60%; otherwise, if greater than 60%, then 100%. Percentage of Title IV aid earned = 44.1%

## Step 3: Amount of Title IV Aid Earned by Student

**D.** 44.1% (% of Title IV aid earned from item C) X $1,741.67 (total Title IV aid disbursed plus Title IV aid that could have been disbursed from item B) = $768.076, rounded to $768.08. Amount of Title IV aid earned by student = $768.08

## Step 4: Total Title IV Aid to be Disbursed or Returned

**E.** Because the total Title IV aid earned (item D) is less than the aid disbursed (item A), no post-withdrawal disbursement is due and we proceed to Item F. Post-withdrawal disbursement = N/A

F. Because the total Title IV aid disbursed (item A) is greater than the aid earned (item D), Title IV aid will need to be returned. $1,741.67 (item A) – $768.08 (item D) = $973.59. Total Title IV aid to be returned = $973.59

## Step 5: Amount of Unearned Title IV Aid Due from the School

G. Because health insurance is required of all students and remains in effect for the entire period, even if the student withdraws, it is not considered an institutional charge. Institutional charges for the payment period = $1,900.00

| | |
|---|---|
| Tuition and Fees | $ 900.00 |
| Room | $ 600.00 |
| Board | $ 400.00 |

H. Subtract % Title IV aid earned (item C) from 100% (100% – 44.1% = 55.9%). Percentage of Title IV aid unearned = 55.9%.

I. First, calculate the amount of unearned institutional charges. $1,900.00 (institutional charges from item G) X 55.9% (%Title IV aid unearned from item H) = $1,062.10 (no rounding needed). Amount of unearned institutional charges = $1,062.10.

J. Then, compare the amount of Title IV aid to be returned (item F) to unearned institutional charges (item I) and enter the lesser amount for item J.

| | |
|---|---|
| Item F = | $ 973.59 |
| Item I = | $ 1,062.10 |

Amount of unearned Title IV aid due from the school = $973.59

## Step 6: Return of Funds the School

No FSEOG funds are returned, since the total Title IV aid returned does not exceed the amount of the Pell Grant received. (FWS earnings are not included in the calculation.)

| | |
|---|---|
| Pell Grant | $973.59 |

## Step 7: Initial Amount of Unearned Title IV aid due from Student

K. Subtract the amount of Title IV aid that the school must return from the total amount of Title IV aid that is to be returned. $973.59 (item F) – $973.59 (item J) = $0.00. Initial amount of unearned Title IV aid due from student = $0.00.

## Step 8: Return of Funds by the Student

N/A

## *Questions and Answers*

Q: The amount of Pell Grant the school is responsible for returning is $973.59. Can the school round the amount? If so, to what?

A: Yes. The school could choose to round the amount. If so, the amount of Pell Grant returned would be $974, since monetary amounts are rounded to the nearest dollar.

Q: If BSU's accrediting agency required that attendance be taken only during the first two weeks of the term, would this change how the withdrawal date is determined?

A: Yes. The regulations do not pertain to schools that are required to take attendance for only a brief portion of the period, but if an outside agency requires attendance to be taken for a group of students (such as those receiving benefits from another government agency), this last date of attendance for this group would be determined by attendance records (and the midpoint determination would not apply).

Q: Why wasn't the $200 in FWS wages that had been credited to Bill's student account included in the calculation?

A: FWS wages are never included in calculating the return of Title IV funds.

## Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

**Student's Name** *Bill Donahue* **Social Security Number** *Case Study 4*

**Date Form Completed** / / **Date of the institution's determination that the student withdrew** *2 / 10 /*

Period used for calculation (check one) ☑ payment period ☐ period of enrollment

Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

### STEP 1: Student's Title IV Aid Information

| | Net Amount Disbursed | Net Amount That Could Have Been Disbursed | | Amount Disbursed | Amount That Could Have Been Disbursed |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | | 5. Pell Grant | *$1,041.67* | |
| 2. Subsidized FFEL/Direct Stafford Loan | | | 6. FSEOG | *$ 700.00* | |
| 3. Perkins Loan | | | 7. Other Title IV programs* | | |
| 4. FFEL/Direct PLUS | | | | | |

*Do not include FWS

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ *1,741.67*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ *1,741.67*

### STEP 2: Percentage of Title IV Aid Earned

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

- Withdrawal date *2 / 8 /* Payment period/period of enrollment start date *1 / 10 /* end date *3 / 17 /*
- Percentage of payment period or period enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period or enrollment (exclude scheduled breaks of 5 days or more AND days that a student was on approved leaves of absence).

*30* (completed days) ÷ *68* (total days) = *44.1* %

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C. **C** *44.1%*

### Step 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

*44.1%* (Box C) x *$ 1,741.67* (Box B) = **D** $ *768.08*

### Step 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement***. Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

(Box D) – (Box A) = **E** $ .

F. ***Title IV aid to be returned***. Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

*$1,741.67* (Box A) – *$768.08* (Box D) = **F** $ *973.59*

**Student's Name** *Bill Donahue* **Social Security Number** *Case Study 4*

### STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

| | | | | | |
|---|---|---|---|---|---|
| Tuition and Fees | *$900.00* | Board | *$400.00* | Other | |
| Room | *$600.00* | Other | | Other | |

Total Institutional Charges **G** $ *1,900.00*

H. Percentage of Title IV aid unearned (100% - Box C) **H** *55.9%*

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

*$1,900.00* (Box G) X *55.9%* (Box H) = **I** $ *1,062.10*

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $ *973.59*

### STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

| | Amount for School to Return | | Amount for School to Return |
|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | 5. Pell Grant | *$973.59* |
| 2. Subsidized FFEL/Direct Stafford Loan | | 6. FSEOG | |
| 3. Perkins Loan | | 7. Other Title IV programs | |
| 4. FFEL/Direct PLUS | | | |

### STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV due from the school (Box J) from the amount of Title IV to be returned (Box F).

*$973.59* (Box F) – *$973.59* (Box J) = **K** $ *0.00*

### STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

| | Amount for Student to Return | | Initial Amount to Return | | Amount for Student to Return |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan* | | 5. Pell Grant | | x 50% = | |
| 2. Subsidized FFEL/Direct Stafford Loan* | | 6. FSEOG | | x 50% = | |
| 3. Perkins Loan* | | 7. Other Title IV programs (x 50% for grant funds) | | | |
| 4. FFEL/Direct PLUS* | | | | | |

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

# CASE STUDY 5: JOSEANNE CARR

**Calculating the return of Title IV funds for a student attending a four-year private school (semesters) and receiving loans (partially disbursed)**

## *Learning Objectives*

- Calculate the return of Title IV funds for a student who is responsible for returning loan funds.
- Determine how to handle Title IV funds that were not disbursed prior to the student's withdrawal.
- Determine the distinction between the student's withdrawal date and the date the school determined the student withdrew.

### SCHOOL PROFILE

Elite College of the South (ECS) is a two- and four-year private, credit-hour institution.

| | |
|---|---|
| Academic Year/Program: | 2 semesters<br>30 weeks |
| Period: | 15 weeks<br>105 calendar days |
| Period Start Date: | September 9 |
| Period End Date: | December 22 |
| 5 Consecutive Day Break: | No |
| Taking Attendance Required: | Yes |
| Method for Matching FSEOG: | N/A |

**STUDENT PROFILE**

Joseanne Carr entered ECS one academic year ago. Charges to her account are as follows:

| | | |
|---|---|---|
| Tuition and Fees | $ | 5,500.00/15 week semester |
| Student Account Balance: | $ | 0.00 |
| School Authorized to Credit Account for Other Charges: | | Yes (all charges) |

Joseanne's financial aid package included the following annual awards:

| | | |
|---|---|---|
| Subsidized Stafford Loan | $ | 970.00 |
| Unsubsidized Stafford Loan | $ | 727.50 |
| PLUS Loan | $ | 5,335.00 |
| ECS Award | $ | 1,000.00 |

## Discussion

Upon entering ECS one academic year ago, Joseanne Carr was torn between a four-year program in communications and a two-year program in interior design. After consulting her personal on-line psychic, she chose the program in interior design and decided to live off campus. Amazingly, the psychic must have gotten Joseanne's reading confused with someone else's, as Joseanne is really struggling in her third semester and has decided that she needs some time away. Although she planned to stop by the Financial Aid Office on October 4 to let those kind folks know that she was withdrawing, she was late for an appointment with her manicurist and didn't have the time. Luckily, by October 14, all of Joseanne's professors had contacted you to advise that she had stopped attending classes. You determined that her last date of attendance was October 1 (23 calendar days into the semester). At that point, her charges for the semester were $5,500.00, and all of her financial aid, except the unsubsidized loan that was projected to be in on October 17, was disbursed.

Using the information provided, complete the worksheet.

## Solution

Date of the institution's determination that the student withdrew = October 14

### Step 1: Student's Title IV Aid Information

**A.** Title IV aid disbursed = $6,305.00

| | |
|---|---|
| Subsidized Loan | $ 970.00 |
| PLUS | $5,335.00 |

**B.** Aid that was disbursed plus aid that could have been disbursed includes the Unsubsidized Stafford loan of $727.50 that could have been disbursed. Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $7,032.50.

## Step 2: Percentage of Title IV Aid Earned

1. Withdrawal date = October 1
2. Payment period start date = September 9
3. Payment period end date = December 22
4. Percentage of payment period completed

- Number of calendar days completed in payment period = 23 calendar days
- Number of calendar days in payment period = 105 calendar days
- 23 days /105 days =.2190, rounded to .219, or 21.9%. Percentage of payment period completed = 21.9%

**C.** Item C up to and including 60%; otherwise, if greater than 60%, then 100%. Percentage of Title IV aid earned = 21.9%

## Step 3: Amount of Title IV Aid Earned by Student

**D.** 21.9% (% of Title IV aid earned from item C) X $7,032.50 (total Title IV aid disbursed plus Title IV aid that could have been disbursed from item B) = $1,540.117, rounded to $1,540.12. Amount of Title IV aid earned by student = $1,540.12

## Step 4: Total Title IV Aid to be Disbursed or Returned

**E.** Because the total Title IV aid earned (item D) is less than the aid disbursed (item A), no post-withdrawal disbursement is due and we proceed to Item F. Post-withdrawal disbursement = N/A.

**F.** Because the total aid disbursed (item A) is greater than the total aid earned (item D), Title IV aid will need to be returned. $6,305.00 (item A) – $1,540.12 (item D) = $4,764.88. Total Title IV aid to be returned = $4,764.88.

## Step 5: Amount of Unearned Title IV Aid Due from the School

**G.** Institutional charges for the payment period or period of enrollment = $5,500.00.

| | |
|---|---|
| Tuition and Fees | $5,500.00 |

H. Subtract % Title IV aid earned (item C) from 100% (100% – 21.9% = 78.1%). Percentage of Title IV aid unearned = 78.1%.

I. First, calculate the amount of unearned institutional charges. $5,500.00 (institutional charges from item G) X 78.1% (% Title IV aid unearned from item H) = $4,295.50 (no rounding needed). Amount of unearned institutional charges = $4,295.50.

J. Then, compare the amount of Title IV aid to be returned (item F) to unearned institutional charges (item I) and enter the lesser amount for item J.

| | |
|---|---|
| Item F = | $ 4,764.88 |
| Item I = | $ 4,295.50 |

Amount of unearned Title IV aid due from the school = $4,295.50.

## Step 6: Return of Funds by the School

| | |
|---|---|
| Subsidized Loan | $ 970.00 |
| PLUS Loan | $3,325.50 |

**Note:** The non-disbursed Unsubsidized Stafford loan of $727.50 will need to be cancelled.

## Step 7: Initial Amount of Unearned Title IV aid due from Student

K. Subtract the amount of Title IV aid that the school must return from the total amount of Title IV aid that is to be returned. $4,764.88 (item F) – $4,295.50 (item J) = $469.38. Initial amount of unearned Title IV aid due from student = $469.38.

## Step 8: Return of Funds by the Student

| | |
|---|---|
| PLUS Loan | $469.38 |

**Note:** Remember, in the case of Parent PLUS loans, the parent—not the student—is responsible for returning the loan funds as per the terms of the promissory note signed.

## *Questions and Answers*

Q: What would the withdrawal date have been if taking attendance were not required at ECS and you had not discovered Joseanne's withdrawal until the last week of the fall semester?

A: Because Joseanne did not begin the withdrawal process or otherwise notify the school of her intent to withdraw, the withdrawal date would have been the *midpoint of the payment period for which Program Assistance was disbursed.* In this case, her professors documented from attendance records that she stopped attending on October 1, before the midpoint of the period. Therefore, attendance at an academically related event later than the midpoint of the period wouldn't apply.

Q: How do Joseanne's parents take care of returning the PLUS loan funds of $469.38? When all is said and done, how much of the original net disbursement of $5,335.00 will they still owe?

A: They simply repay the funds in accordance with the terms of the promissory note. And, they still owe $2,009.50 ($5,335.00 – $ 3325.50 = $2,009.50), plus loan origination fees.

Q: What is the distinction between "withdrawal date" and "date of the institution's determination that the student withdrew" in the return of Title IV funds?

A: Withdrawal date affects the number of days the student completed and, in turn, the percentage of aid earned as well as the percentage of aid unearned. The date of the institution's determination that the student withdrew starts the clock with regard to the various time-sensitive requirements to which the institution and student must adhere.

Remember that these dates are not necessarily one and the same.

## Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

**Student's Name** *Joseanne Carr* **Social Security Number** *Case Study 5*

**Date Form Completed** __/__/__ **Date of the institution's determination that the student withdrew** *10/ 14/*

Period used for calculation (check one) ☑ payment period ☐ period of enrollment

Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

**STEP 1: Student's Title IV Aid Information**

| | Net Amount Disbursed | Net Amount That Could Have Been Disbursed | | Amount Disbursed | Amount That Could Have Been Disbursed |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | *$ 727.50* | 5. Pell Grant | | |
| 2. Subsidized FFEL/Direct Stafford Loan | *$ 970.00* | | 6. FSEOG | | |
| 3. Perkins Loan | | | 7. Other Title IV programs* | | |
| 4. FFEL/Direct PLUS | *$5,335.00* | | *Do not include FWS. | | |

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ *6,305.00*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ *7,032.50*

**STEP 2: Percentage of Title IV Aid Earned**

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

• Withdrawal date *10/ 1 /* Payment period/period of enrollment start date *9/ 9 /* end date *12/ 22 /*

• Percentage of payment period or period enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period or enrollment (exclude scheduled breaks of 5 days or more AND days that a student was on approved leaves of absence).

*23* (completed days) ÷ *105* (total days) = *21.9* %

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C.

**C** *21.9%*

**Step 3: Amount of Title IV Aid Earned by the Student**

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

*21.9%* (Box C) X *$ 7,032.50* (Box B) = **D** $ *1,540.12*

**Step 4: Total Title IV Aid to be Disbursed or Returned**

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement.*** Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

____ (Box D) – ____ (Box A) = **E** $ ____ . __

F. ***Title IV aid to be returned.*** Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

*$6,305.00* (Box A) – *$1,540.12* (Box D) = **F** $ *4,764.88*

**Student's Name** *Joseanne Carr* **Social Security Number** *Case Study 5*

**STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL**

G. Institutional charges for the payment period or period of enrollment

Tuition and Fees *$5,500.00* Board ________ Other ________

Room ________ Other ________ Other ________

Total Institutional Charges **G** *$ 5,500.00*

H. Percentage of Title IV aid unearned (100% - Box C) **H** *78.1%*

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

*$5,500.00* (Box G) X *78.1%* (Box H) = **I** *$ 4,295.50*

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** *$ 4,295.50*

**STEP 6: Return of Funds by the SCHOOL**

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

| | Amount for School to Return | | Amount for School to Return |
|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | 5. Pell Grant | |
| 2. Subsidized FFEL/Direct Stafford Loan | *$ 970.00* | 6. FSEOG | |
| 3. Perkins Loan | | 7. Other Title IV programs | |
| 4. FFEL/Direct PLUS | *$3,325.50* | | |

**STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT**

K. Subtract the amount of Title IV due from the school (Box J) from the amount of Title IV to be returned (Box F).

*$4,764.88* (Box F) – *$4,295.50* (Box J) = **K** *$ 469.38*

**STEP 8: Return of Funds by the STUDENT**

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

| | Amount for Student to Return | | Initial Amount to Return | | Amount for Student to Return |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan* | | 5. Pell Grant | | x 50%= | |
| 2. Subsidized FFEL/Direct Stafford Loan* | | 6. FSEOG | | x 50%= | |
| 3. Perkins Loan* | | 7. Other Title IV programs | | | |
| 4. FFEL/Direct PLUS* | *$469.38* | (x 50% for grant funds) | | | |

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

# CASE STUDY 6: RONNIE DESMOND

**Calculating the return of Title IV funds for a student attending a four-year, low-cost private school (semesters) and receiving loans and grants (partially disbursed)**

## *Learning Objectives*

- Calculate the return of Title IV funds for a student who is responsible for returning loan and grant funds
- Determine the school's requirements for dealing with a student who owes a grant overpayment
- Review the effect of rescinding a notice of intent to withdraw on determining the student's withdrawal date

### SCHOOL PROFILE

Heartland of the Country College (HCC) is a four-year private, credit hour institution.

| | |
|---|---|
| Academic Year/Program: | 2 semesters<br>30 weeks |
| Period: | 15 weeks<br>114 calendar days |
| Period Start Date: | January 12 |
| Period End Date: | May 5 |
| 5 Consecutive Day Break: | No |
| Taking Attendance Required: | No |
| Method for Matching FSEOG: | Fund-specific |

**STUDENT PROFILE**

Ronnie Desmond is a first-time freshman at HCC. Charges to his account are as follows:

| | | |
|---|---|---|
| Tuition and Fees | $ | 1,000.00/15 week semester |
| Room and Board | | (nonresidential student) |
| Books and Supplies | $ | 250.00/15 week semester |
| Student Account Balance: | $ | 0.00 |

School Authorized to Credit Account for Other Charges: Yes (all charges)

Ronnie's financial aid package includes the following annual awards:

| | | |
|---|---|---|
| Subsidized Stafford Loan | $ | 557.75 (Net) |
| Pell Grant | $ | 1,562.50 |
| FSEOG | $ | 1,000.00 |

## Discussion

Just recently, Ronnie Desmond and his sister, Mary, ended a short run as hosts of a local radio program. Unsure of what to do with the rest of his life, Ronnie decided to enroll as a first-time freshman at HCC for the spring semester. Along with his tuition and fees, he was charged $250.00 for books and supplies, which must be purchased from the campus bookstore. Although he had to take out a small student loan for living expenses, he had the full support of his wife. Ronnie did very well—until March 20, when he and Mary got a call from the radio station promising a very lucrative long-term contract and begging them to come back. That same day, Ronnie contacted the Financial Aid Office to advise that he was withdrawing from HCC (68 calendar days into the semester) and to find out what to do next. With the exception of the Stafford loan that had just been certified, all of his financial aid for the semester had been disbursed.

Using the information provided, complete the worksheet.

## Solution

Date of the institution's determination that the student withdrew = March 20

### Step 1: Student's Title IV Aid Information

A. Because HCC uses the fund-specific method of matching FSEOG funds, 100% of Ronnie's FSEOG grant is used in the calculation. Title IV aid disbursed = $2,562.50

| | |
|---|---|
| Pell Grant | $1,562.50 |
| FSEOG | $1,000.00 |

**B.** Aid that was disbursed plus aid that could have been disbursed includes the subsidized Stafford Loan of $557.75 that could have been disbursed. Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $3,120.25

## Step 2: Percentage of Title IV Aid Earned

1. Withdrawal date = March 20
2. Payment period start date = January 13
3. Payment period end date = May 5
4. Percentage of payment period completed
   - Number of calendar days completed in payment period = 68 calendar days
   - Number of calendar days in payment period = 114 calendar days
   - 68 days / 114 days = .5964, rounded to .596, or 59.6%. Percentage of payment period completed = 59.6%

**C.** Item C up to and including 60%; otherwise, if greater than 60%, then 100%. Percentage of Title IV aid earned = 59.6%

## Step 3: Amount of Title IV Aid Earned by Student

**D.** 59.6% (% of Title IV aid earned from item C) X $3,120.25 (total Title IV aid disbursed plus Title IV aid that could have been disbursed from item B) = $1,859.669 (rounded to $1,859.67). Amount of Title IV aid earned by student = $1,859.67

## Step 4: Total Title IV Aid to be Disbursed or Returned

**E.** Because the total Title IV aid earned (item D) is less than the aid disbursed (item A), no post-withdrawal disbursement is due and we proceed to Item F. Post-withdrawal disbursement = N/A

**F.** Because the total aid disbursed (item A) is greater than the total aid earned (item D), Title IV aid will need to be returned. $2,562.50 (item A) – $1,859.67 (item D) = $702.83. Title IV aid to be returned = $702.83

## Step 5: Amount of Unearned Title IV Aid Due from the School

**G.** Institutional charges for the payment period or period of enrollment = $1,250.00

| | |
|---|---|
| Tuition and Fees | $1,000.00 |
| Books and Supplies | $ 250.00 |

**H.** Subtract % Title IV aid earned (item C) from 100% (100% – 59.6% = 40.4%). Percentage of Title IV aid unearned = 40.4%.

**I.** First, calculate the unearned institutional charges. $1,250.00 (institutional charges from item G) X 40.4% (% Title IV aid unearned from item H) = $505.00 (no rounding needed). Amount of unearned institutional charges = $505.00

**J.** Then, compare of amount of Title IV aid to be returned (item F) to unearned institutional charges (item I) and enter the lesser amount for item J.

| | |
|---|---|
| Item F = | $ 702.83 |
| Item I = | $ 505.00 |

Amount of unearned Title IV aid due from the school = $505.00

## Step 6: Return of Funds by the School

| | |
|---|---|
| Pell Grant | $505.00 |

**Note:** The non-disbursed Subsidized loan of $557.75 would need to be cancelled.

## Step 7: Initial Amount of Unearned Title IV aid due from Student

**K.** Subtract the amount of Title IV aid that the school must return from the total amount of Title IV aid that is to be returned. $702.83 (item F) – $505.00 (item J) = $197.83. Initial amount of unearned Title IV aid due from student = $197.83.

## Step 8: Return of Funds by the Student

Initial amount to return multiplied by 50%. $197.83 X 50% = $98.915 (rounded to 98.92).

| | |
|---|---|
| Pell Grant | $98.92 |

## *Questions and Answers*

Q: Had Ronnie's loan been disbursed at the time of withdrawal, would he have had to repay (return) the loan immediately?

A: No. Immediate repayment of the loan is not required because it is expected the loan will be repaid according to the terms and conditions of the promissory note the student signed.

Q: What happens if Ronnie is unable to repay the portion of the Pell Grant that must be returned?

A: Ronnie remains eligible for Title IV aid for up to 45 days from the earlier of the date the school mails him a notification of his obligation or the date the school is required to send him that notification. Ronnie can continue his eligibility by returning the overpayment or by agreeing to a repayment arrangement. Please see pages XX to XX for a complete discussion of a school's notification responsibilities and a student's options.

Q: What would the withdrawal date have been if Ronnie had changed his mind and rescinded his notice of withdrawal, and finally decided definitely to withdraw on March 27?

A: The withdrawal date used for the calculation of return of Title IV funds would have been the earlier date, March 20. Remember that if the institution allows the student to rescind the official notification of intent to withdraw, and the student subsequently ceases attendance, the rescission is negated and the withdrawal date is the student's original withdrawal date.

## Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

**Student's Name** *Ronnie Desmond* **Social Security Number** *Case Study 6*

**Date Form Completed** __/__/__ **Date of the institution's determination that the student withdrew** *3/20/*

Period used for calculation (check one) v☐ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

### STEP 1: Student's Title IV Aid Information

| | Net Amount Disbursed | Net Amount That Could Have Been Disbursed | | Amount Disbursed | Amount That Could Have Been Disbursed |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | | 5. Pell Grant | *$1,562.50* | |
| 2. Subsidized FFEL/Direct Stafford Loan | | *$557.75* | 6. FSEOG | *$1,000.00* | |
| 3. Perkins Loan | | | 7. Other Title IV programs* | | |
| 4. FFEL/Direct PLUS | | | *Do not include FWS. | | |

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ *2,562.50*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ *3,120.25*

### STEP 2: Percentage of Title IV Aid Earned

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

- Withdrawal date *3/20/* Payment period/period of enrollment start date *1/13/* end date *5/5/*
- Percentage of payment period or period enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period or enrollment (exclude scheduled breaks of 5 days or more AND days that a student was on approved leaves of absence).

*68* (completed days) ÷ *114* (total days) = *59.6* %

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C.

**C** *59.6%*

### Step 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

*59.6%* (Box C) X *$3,120.25* (Box B) = **D** $ *1,859.67*

### Step 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement***. Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

____ (Box D) – ____ (Box A) = **E** $ .

F. ***Title IV aid to be returned***. Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

*$2,562.50* (Box A) – *$1,859.67* (Box D) = **F** $ *702.83*

**Student's Name** *Ronnie Desmond* **Social Security Number** *Case Study 6*

### STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

| | | | | | |
|---|---|---|---|---|---|
| Tuition and Fees | *$1,000.00* | Board | | Other | |
| Room | | Other | *$250.00* | Other | |

Total Institutional Charges **G** $ *1,250.00*

H. Percentage of Title IV aid unearned (100% - Box C) **H** *40.4%*

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

*$1,250.00* (Box G) X *40.4%* (Box H) = **I** $ *505.00*

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $ *505.00*

### STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

| | Amount for School to Return | | Amount for School to Return |
|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | 5. Pell Grant | *$505.00* |
| 2. Subsidized FFEL/Direct Stafford Loan | | 6. FSEOG | |
| 3. Perkins Loan | | 7. Other Title IV programs | |
| 4. FFEL/Direct PLUS | | | |

### STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV due from the school (Box J) from the amount of Title IV to be returned (Box F).

*$702.83* (Box F) - *$505.00* (Box J) = **K** $ *197.83*

### STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

| | Amount for Student to Return | | Initial Amount to Return | | Amount for Student to Return |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan* | | 5. Pell Grant | *$197.83* | x 50% = | *$98.92* |
| 2. Subsidized FFEL/Direct Stafford Loan* | | 6. FSEOG | | x 50% = | |
| 3. Perkins Loan* | | 7. Other Title IV programs (x 50% for grant funds) | | | |
| 4. FFEL/Direct PLUS* | | | | | |

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

# CASE STUDY 7: JORDAN AIRE

**Calculating the return to Title IV funds for a student attending a clock hour school that performs the return to Title IV funds calculations on an enrollment period basis.**

## *Learning Objectives*

Learn to complete Steps 1 – 4 of the worksheet *Treatment of Title IV Funds When a Student Withdraws from a Clock Hour Program*, and be able to:

- determine when a school may make a second or subsequent disbursement of a FFEL or Direct Loan;
- calculate the percentage and amount of Title IV aid earned by a student attending a school that performs the return to Title IV funds calculations on a period of enrollment basis;
- perform a return to Title IV funds calculation using scheduled hours rather actual hours;
- in the calculation, use net loan proceeds rather than the gross loan amount.

### SCHOOL PROFILE

Learn to Earn Training School (LETS) is a proprietary clock hour institution.

| | |
|---|---|
| Program: | 1500 clock hours<br>50 weeks |
| Academic Year / Period of Enrollment: | 900 clock hours<br>30 weeks |
| Academic Year Start Date: | January 3 |
| Academic Year End Date: | July 28 |
| Five Consecutive Day Break: | No |
| Taking Attendance Required: | Yes |
| Method for Matching FSEOG | Fund Specific |

### Student Profile

Jordan Aire enrolled at LETS for an electronic technology program that runs for 50 weeks and 1500 clock hours. The period of enrollment is the academic year or 900 clock hours (30 weeks). Charges to his account are as follows:

| | | |
|---|---|---|
| Tuition and Fees | $ | 5,000.00 / 30 week academic year |
| Room and Board | | (nonresidential school) |
| Books and Supplies | $ | 500.00 / 30 weeks |
| School authorized to credit account for other charges | | Yes (all charges) |

Jordan Aire was eligible for the following annual awards:

| | | |
|---|---|---|
| Pell Grant | $ | 1,400.00 |
| Subsidized Stafford Loan | $ | 2,625.00 |

## Discussion

Jordan's student account was initially credited with $700.00 in Pell funds and a net Stafford Loan Disbursement of $1,260. (Though the school is using period of enrollment as the basis for the return to Title IV funds calculation, the Pell and Stafford Loan regulations require that the funds be disbursed in payment periods as defined in 34CFR 668.4.)

Jordan completes the first half of the academic year (first payment period) attends a portion of the second payment period, and withdraws to go into the Navy. At the point Jordan withdrew, he had completed 500 of the 650 lock hours he was scheduled to complete as of the date he withdrew.

## Solution

### Step 1: Student's Title IV Aid Information

A. When Jordan withdrew, he had received the first scheduled disbursements of the Pell Grant and loan, but had not yet received any disbursement for the second half of the period of enrollment. Title IV aid disbursed = $1960.00

| | | |
|---|---|---|
| Subsidized Loan | $ | 1,260.00 |
| Pell Grant | $ | 700.00 |

In order for any of the aid that had not yet been disbursed to be counted as Aid That Could Have Been Disbursed, the student must meet the requirements for a late disbursement in 34 CFR 668.164(g). Since the student's valid ISIR had already been received and the student had completed the payment period for which Pell funds had been disbursed (at least one-half of the academic year), the Pell Grant funds that had not yet been disbursed ($700.00) are included as Aid That Could Have Been Disbursed.

The student's loan application has been certified and the student has completed the first payment period, so the second disbursement ($1,260.00) of the loan is included in Aid That Could Have Been Disbursed.

Aid that could have been disbursed = $700.00 + $1,260.00 = $1,960

**B.** Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $3,920.00

## Step 2: Percentage of Title IV Aid Earned

Information used to complete Step 2:

| | |
|---|---|
| • Total clock hours in the period | 900 |
| • Number of clock hours Jordan completed | 500 |
| • Number of clock hours scheduled to be completed | 650 |

1. Determine the percentage of clock hours completed in the period. Divide the number of clock hours completed by the number of clock hours in the period of enrollment. 500 hours divided by 900 hours = .5555, rounded to .556, or 55.6%. Since this is less than 60%, proceed to calculation 2.
2. Determine the ratio of clock hours completed to clock hours scheduled to be completed. Divide the number of clock hours completed by the clock hours scheduled to be completed. 500 hours divided by 650 hours = .7692, rounded to .769, of 76.9%. Since this percentage is greater than 70% calculate the percent of the period completed (which is also the percent of aid earned) using scheduled hours (rather than completed hours).

**C.** Calculate the percent of the period completed. 650 scheduled hours divided by 900 hours in the period of enrollment = .7222, rounded to .722, or 72.2%. (Note that the concept of a student earning 100% of the Title IV aid if the percentage completed exceeds 60% does not apply if scheduled hours are used.)

## Step 3: Amount of Title IV Aid Earned by Student

**D.** The amount of Title IV aid earned is equal to the percentage of Title IV aid earned (C) times the total Title IV aid disbursed plus Title IV aid that could have been disbursed for the period of enrollment. Amount of Title IV aid earned by student = (72.2% X $3,920.00) = $2,830.24

## Step 4: Total Title IV Aid to be Disbursed or Returned

**E.** The student had been disbursed $1,960 of the $2,830.24, so he is owed a post-withdrawal disbursement of $870.24.

A post-withdrawal disbursement must be made first from any available grant funds. The student had $700.00 in Pell Grant funds that had not, but could have been disbursed, so the entire $700.00 in Pell funds must be used to make a post-withdrawal disbursement.

In addition, The student is still owed $170.24 in a post-withdrawal disbursement. However, the late disbursement rules provide that the student may not receive a late second or subsequent disbursement of a Title IV education loan unless the student has graduated or successfully completed the period of enrollment for which the loan was intended. Therefore, although the second scheduled loan disbursement of $1,260 was included in the calculation of earned aid, the student cannot receive any of those funds. **Therefore, the actual amount of the student's post-withdrawal disbursement is the $700 in Pell Grant funds.**

## Treatment of Title IV Funds When a Student Withdraws from A Clock Hour Program

**Student's Name** Jordan Aire **Social Security Number** ____________

**Date Form Completed** ___/___/___ **Date of the institution's determination that the student withdrew** ___/___/___

Period used for calculation (check one) ☐ payment period ☒ period of enrollment

Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

**STEP 1: Student's Title IV Aid Information**

| | Net Amount Disbursed | Net Amount That Could Have Been Disbursed | | Amount Disbursed | Amount That Could Have Been Disbursed |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | | 5. Pell Grant | $700 | $700 |
| 2. Subsidized FFEL/Direct Stafford Loan | $1,260 | $1,260 | 6. FSEOG | | |
| 3. Perkins Loan | | | 7. Other Title IV programs* | | |
| 4. FFEL/Direct PLUS | | | *Do not include FWS. | | |

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ 1,960.00

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ 3,920.00

**STEP 2: Percentage of Title IV Aid Earned**

C. • Withdrawal date ___/___/___

- Percentage of payment period or period of enrollment completed

***Calculation 1*** - Determine the clock hours completed* in the payment period or period of enrollment divided by the total clock hours in the payment period or period of enrollment 500 (completed hours) ÷ 900 (total hours) = 55.6 %

If this percentage is greater than 60%, enter 100% in Box C and proceed to Step 3.

If this percentage is less than or equal to 60%, proceed to Calculation 2.

***Calculation 2*** - Determine the clock hours completed* in the payment period or period of enrollment divided by the clock hours scheduled to be completed as of the date the student withdrew. 500 (completed hours) ÷ 650 (scheduled to complete) = 76.9 %

If this amount is less than 70%, enter the percentage from Calculation 1 in Box C and proceed to Step 3. If this amount is 70% or greater, determine the clock hours scheduled to be completed as of the date the student withdrew divided by the total clock hours in the payment period or period of enrollment and enter this amount in Box C (this amount may be greater than 60%).

*Excused absences do NOT count as completed hours 650 (scheduled to complete) ÷ 900 (total hours) = 72.2 % **C** 72.2 %

**STEP 3: Amount of Title IV Aid Earned by the Student**

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B) 72.2 % (Box C) x $3,920.00 (Box B) = **D** $ 2,830.24

**STEP 4: Total Title IV Aid to be Disbursed or Returned**

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

**Student's Name** Jordan Aire **Social Security Number** ____________________

### STEP 4: Total Title IV Aid to be Disbursed or Returned: Continued

E. ***Post-withdrawal disbursement.*** Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

$2,830.24 (Box D) – $1960.00 (Box A) = **E** $ ~~870.24~~ 700.00

F. ***Title IV aid to be returned.*** Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

☐ (Box A) – ☐ (Box D) = **F** $ ______ . ___

### STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

| | | | | | |
|---|---|---|---|---|---|
| Tuition and Fees | ________ | Board | ________ | Other | ________ |
| Room | ________ | Other | ________ | Other | ________ |

Total Institutional Charges **G** $ ______ . ___

H. Percentage of Title IV aid unearned (100% - Box C) **H** ______ . ___ %

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

☐ (Box G) x ☐ % (Box H) = **I** $ ______ . ___

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $ ______ . ___

### STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

| | Amount for School to Return | | Amount for School to Return |
|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | ________ | 5. Pell Grant | ________ |
| 2. Subsidized FFEL/Direct Stafford Loan | ________ | 6. FSEOG | ________ |
| 3. Perkins Loan | ________ | 7. Other Title IV programs | ________ |
| 4. FFEL/Direct PLUS | ________ | | |

### STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV aid due from the school (Box J) from the amount of Title IV aid to be returned (Box F).

☐ (Box F) – ☐ (Box J) = **K** $ ______ . ___

### STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

| | Amount for Student to Return | | Initial Amount to Return | | Amount for Student to Return |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan* | ________ | 5. Pell Grant | ________ | x 50%= | ________ |
| 2. Subsidized FFEL/Direct Stafford Loan* | ________ | 6. FSEOG | ________ | x 50%= | ________ |
| 3. Perkins Loan* | ________ | 7. Other Title IV programs | ________ | | |
| 4. FFEL/Direct PLUS* | ________ | (x 50% for grant funds) | | | |

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

## Post-Withdrawal Disbursement Tracking Sheet

**Student's Name** Jordan Aire **Social Security Number** ______________

**Amount of Post-Withdrawal Disbursement**

A. Amount from Box E of "Treatment of Title IV Funds When a Student Withdraws" Worksheet **A** $ 700.00

---

**Post-Withdrawal Disbursement Credited to Student's Account**

B. Total outstanding charges on student's account **B** $ 0.

C. Total amount of post-withdrawal disbursement credited to student's account

- Amount of post-withdrawal disbursement credited for tuition, fees, room and board (if student contracts with the institution) $ ______
- Amount of post-withdrawal disbursement credited for other current charges + $ ______
- Amount of post-withdrawal disbursement credited for minor prior year charges + $ ______

Total Amount Credited to Account **C** $ 0.

D. Student and/or parent authorization to credit account for other current charges or minor prior year charges (if necessary) obtained on ___/___/___

E. If a post-withdrawal disbursement of loan funds is credited to account, date of notification to student and/or parent ___/___/___

---

**Post-Withdrawal Disbursement Offered to Student/Parent**

F. Total amount of post-withdrawal disbursement (Box A) – amount of post-withdrawal disbursement credited to student's account (Box C) = Total amount to offer to student/parent **F** $ 700.00

G. Notification sent to student and/or parent on ___/___/___

H. ☐ Response received from student/parent on ___/___/___

☐ Response not received

I. Amount accepted **I** $ 700.00

J. Accepted funds sent on ___/___/___

---

**Post-Withdrawal Disbursement Made From**

| | | | |
|---|---|---|---|
| Pell Grant | ______ | Subsidized FFEL/Direct Stafford Loan | ______ |
| FSEOG | ______ | Unsubsidized FFEL/Direct Stafford Loan | ______ |
| Other Title IV programs (grants) | ______ | Perkins Loan | ______ |
| | | FFEL/Direct PLUS | ______ |
| | | Other Title IV programs (loans) | ______ |

# Treatment of Title IV Funds When a Student Withdraws from A Clock Hour Program

**Student's Name** ______________________________ **Social Security Number** ____________________

**Date Form Completed** ____/____/____ **Date of the institution's determination that the student withdrew**____/____/____

Period used for calculation (check one) ☐ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

**STEP 1: Student's Title IV Aid Information**

| | Net Amount Disbursed | Net Amount That Could Have Been Disbursed | | Amount Disbursed | Amount That Could Have Been Disbursed |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | ________ | ________ | 5. Pell Grant | ________ | ________ |
| 2. Subsidized FFEL/Direct Stafford Loan | ________ | ________ | 6. FSEOG | ________ | ________ |
| 3. Perkins Loan | ________ | ________ | 7. Other Title IV programs* | ________ | ________ |
| 4. FFEL/Direct PLUS | ________ | ________ | *Do not include FWS. | | |

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ ______ . ____

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ ______ . ____

**STEP 2: Percentage of Title IV Aid Earned**

C. • Withdrawal date ____/____/____

- Percentage of payment period or period of enrollment completed

***Calculation 1*** - Determine the clock hours completed* in the payment period or period of enrollment divided by the total clock hours in the payment period or period of enrollment ☐ ÷ ☐ = ____ . ____ %

completed hours ÷ total hours

If this percentage is greater than 60%, enter 100% in Box C and proceed to Step 3.

If this percentage is less than or equal to 60%, proceed to Calculation 2.

***Calculation 2*** - Determine the clock hours completed* in the payment period or period of enrollment divided by the clock hours scheduled to be completed as of the date the student withdrew. ☐ ÷ ☐ = ____ . ____ %

completed hours ÷ scheduled to complete

If this amount is less than 70%, enter the percentage from Calculation 1 in Box C and proceed to Step 3. If this amount is 70% or greater, determine the clock hours scheduled to be completed as of the date the student withdrew divided by the total clock hours in the payment period or period of enrollment and enter this amount in Box C (this amount may be greater than 60%).

*Excused absences do NOT count as completed hours. ☐ ÷ ☐ = ____ . ____ % **C** ______ . ____ %

scheduled to complete ÷ total hours

**STEP 3: Amount of Title IV Aid Earned by the Student**

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B) ☐ % x ☐ = **D** $ ______ . ____

Box C x Box B

**STEP 4: Total Title IV Aid to be Disbursed or Returned**

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

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**Student's Name**____________________ **Social Security Number**____________________

**STEP 4: Total Title IV Aid to be Disbursed or Returned: Continued**

E. ***Post-withdrawal disbursement.*** Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

☐ – ☐ = **E** $ .
Box D Box A

F. ***Title IV aid to be returned.*** Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

☐ – ☐ = **F** $ .
Box A Box D

**STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL**

G. Institutional charges for the payment period or period of enrollment

Tuition and Fees ______ Board ______ Other ______
Room ______ Other ______ Other ______

Total Institutional Charges **G** $ .

H. Percentage of Title IV aid unearned (100% - Box C) **H** . %

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

☐ x ☐ % = **I** $ .
Box G Box H

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $ .

**STEP 6: Return of Funds by the SCHOOL**

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

| | Amount for School to Return | | Amount for School to Return |
|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | ______ | 5. Pell Grant | ______ |
| 2. Subsidized FFEL/Direct Stafford Loan | ______ | 6. FSEOG | ______ |
| 3. Perkins Loan | ______ | 7. Other Title IV programs | ______ |
| 4. FFEL/Direct PLUS | ______ | | |

**STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT**

K. Subtract the amount of Title IV aid due from the school (Box J) from the amount of Title IV aid to be returned (Box F).

☐ – ☐ = **K** $ .
Box F Box J

**STEP 8: Return of Funds by the STUDENT**

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

| | Amount for Student to Return | | Initial Amount to Return | | Amount for Student to Return |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan* | ______ | 5. Pell Grant | ______ | x 50%= | ______ |
| 2. Subsidized FFEL/Direct Stafford Loan* | ______ | 6. FSEOG | ______ | x 50%= | ______ |
| 3. Perkins Loan* | ______ | 7. Other Title IV programs ______ | | | |
| 4. FFEL/Direct PLUS* | ______ | (x 50% for grant funds) | | | |

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

12/29/99

# Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

**Student's Name** ______________________ **Social Security Number** ______________

**Date Form Completed** ___/___/___ **Date of the institution's determination that the student withdrew** ___/___/___

Period used for calculation (check one) ☐ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

## STEP 1: Student's Title IV Aid Information

| | Net Amount Disbursed | Net Amount That Could Have Been Disbursed | | Amount Disbursed | Amount That Could Have Been Disbursed |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | | | 5. Pell Grant | | |
| 2. Subsidized FFEL/Direct Stafford Loan | | | 6. FSEOG | | |
| 3. Perkins Loan | | | 7. Other Title IV programs* | | |
| 4. FFEL/Direct PLUS | | | *Do not include FWS. | | |

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ .

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ .

## STEP 2: Percentage of Title IV Aid Earned

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

- Withdrawal date ___/___/___ Payment period/period of enrollment start date ___/___/___ end date ___/___/___
- Percentage of payment period or period of enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period of enrollment (exclude scheduled breaks of 5 days or more AND days that the student was on approved leaves of absence).

☐ ÷ ☐ = ___ . ___ %

completed days total days

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C. **C** . %

## STEP 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

☐ % x ☐ = **D** $ .

Box C Box B

## STEP 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement.*** Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

☐ – ☐ = **E** $ .

Box D Box A

F. ***Title IV aid to be returned.*** Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

☐ – ☐ = **F** $ .

Box A Box D

12/29/99

**Student's Name** ______________________ **Social Security Number** ________________

**STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL**

G. Institutional charges for the payment period or period of enrollment

Tuition and Fees ______ Board ____________ Other ____________
Room ______ Other ____________ Other ____________

Total Institutional Charges **G** $ .

H. Percentage of Title IV aid unearned (100% - Box C) **H** . %

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

Box G x Box H % = **I** $ .

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $ .

**STEP 6: Return of Funds by the SCHOOL**

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

| | Amount for School to Return | | Amount for School to Return |
|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan | ______ | 5. Pell Grant | ______ |
| 2. Subsidized FFEL/Direct Stafford Loan | ______ | 6. FSEOG | ______ |
| 3. Perkins Loan | ______ | 7. Other Title IV programs | ______ |
| 4. FFEL/Direct PLUS | ______ | | |

**STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT**

K. Subtract the amount of Title IV aid due from the school (Box J) from the amount of Title IV aid to be returned (Box F).

Box F – Box J = **K** $ .

**STEP 8: Return of Funds by the STUDENT**

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

| | Amount for Student to Return | | Initial Amount to Return | | Amount for Student to Return |
|---|---|---|---|---|---|
| 1. Unsubsidized FFEL/Direct Stafford Loan* | ______ | 5. Pell Grant | ______ | x 50%= | ______ |
| 2. Subsidized FFEL/Direct Stafford Loan* | ______ | 6. FSEOG | ______ | x 50%= | ______ |
| 3. Perkins Loan* | ______ | 7. Other Title IV programs<br>(x 50% for grant funds) | ______ | | |
| 4. FFEL/Direct PLUS* | ______ | | | | |

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

## Post-Withdrawal Disbursement Tracking Sheet

**Student's Name** ______________________ **Social Security Number** ________________

**Amount of Post-Withdrawal Disbursement**

A. Amount from Box E of "Treatment of Title IV Funds When a Student Withdraws" Worksheet **A** $ .

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**Post-Withdrawal Disbursement Credited to Student's Account**

B. Total outstanding charges on student's account **B** $ .

C. Total amount of post-withdrawal disbursement credited to student's account

- Amount of post-withdrawal disbursement credited for tuition, fees, room and board (if student contracts with the institution) $ __________
- Amount of post-withdrawal disbursement credited for other current charges + $ __________
- Amount of post-withdrawal disbursement credited for minor prior year charges + $ __________

Total Amount Credited to Account **C** $ .

D. Student and/or parent authorization to credit account for other current charges or minor prior year charges (if necessary) obtained on ___/___/___

E. If a post-withdrawal disbursement of loan funds is credited to account, date of notification to student and/or parent ___/___/___

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**Post-Withdrawal Disbursement Offered to Student/Parent**

F. Total amount of post-withdrawal disbursement (Box A) – amount of post-withdrawal disbursement credited to student's account (Box C) = Total amount to offer to student/parent **F** $ .

G. Notification sent to student and/or parent on ___/___/___

H. ☐ Response received from student/parent on ___/___/___

☐ Response not received

I. Amount accepted **I** $ .

J. Accepted funds sent on ___/___/___

---

**Post-Withdrawal Disbursement Made From**

| | | | |
|---|---|---|---|
| Pell Grant | __________ | Subsidized FFEL/Direct Stafford Loan | __________ |
| FSEOG | __________ | Unsubsidized FFEL/Direct Stafford Loan | __________ |
| Other Title IV programs (grants) | __________ | Perkins Loan | __________ |
| | | FFEL/Direct PLUS | __________ |
| | | Other Title IV programs (loans) | __________ |

12/29/99

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# Student Withdrawal/Overpayment Referral to ED/SFA Collections

## Student Information

Name (Last, First, MI):

Address:

Telephone Numbers:

Social Security Number:

Date of Birth:

Student's Pell Origination ID:

## Parent/Spouse Information

Name (Last, First, MI):

Address:

Telephone Numbers:

## School Information

Name of Contact:

Telephone Numbers:

School's Pell Identification Number:

## Disbursements and Repayments

| | Federal Pell | Federal SEOG |
|---|---|---|
| Award year of overpayment: | | |
| Grant funds applied to institutional charges: | | |
| Grant funds disbursed to student: | | |
| Total Grant Disbursement: | | |
| Dates of disbursement **(must match NSLDS overpayment record):** | | |
| Date overpayment notice was required to be mailed: | | |
| Amount of grant for student to return (50% of initial calculation): | | |
| Total grant amount repaid by student to school: | | |
| Date of last payment to school, if any: | | |
| Total being referred for collection: | | * |

If using individual or aggregate matching, report federal share only. Otherwise report total FSEOG.*

**SEND INFORMATION TO ⇛** Student Loan Processing Center-Overpayments
P.O. Box 4157
Greenville, TX 75403

**(903) 408-4634 ⇚ FAX**

**Return of Title IV Funds Requirements and Deadlines**

| Party Responsible | Requirement | Deadline |
|---|---|---|
| School | **Determining withdrawal date** for student who withdraws without providing notification | 30 days after the end of the earlier of:<br>• Payment or enrollment period<br>•Academic year in which student withdrew<br>• Educational program from which student withdrew |
| School | **Return of unearned Title IV funds** | As soon as possible, but no later than 30 days after date school determined student withdrew |
| School | **Post-withdrawal disbursement to student's account for:**<br>• Outstanding current (allowable) charges (e.g., tuition and fees, room and board, etc.)<br>• Minor (under $100) prior year charges that the school has authorization to retain | Within 90 days of date school determined student withdrew, in accordance with requirements for disbursing Title IV funds 34 CFR 668.164) |
| School | **Written notification providing student (or parent) opportunity to cancel all/ part of loan,** for post-withdrawal disbursements of loan funds (Perkins, FFEL, Direct Loan, or PLUS) to student's account | Within 30 days of disbursement of loan funds, in accordance with requirements for notifications and authorizations 34 CFR 668.165) |
| School | **Written notification of student's eligibility for post-withdrawal disbursement in excess of outstanding current (educationally related) charges** | Within 30 days of date school determined student withdrew |
| Student (or parent) | **Submit response instructing school to make post-withdrawal disbursement** | Within 14 days of date school sent notification |
| School | **Post-withdrawal disbursement to student** for earned Title IV funds in excess of outstanding current (educationally related) charges | Within 90 days of date school determined student withdrew |
| School | **Notification to student (or parent) of outcome of late request for a post-withdrawal disbursement to student** (request received by school after the 14 day period and school chooses not to make disbursement) | Not specified |
| School | **Notification to student of grant overpayment** | Within 30 days of date school determined student withdrew |
| School | **Referral of student to the Secretary,** if student does not pay overpayment in full, does not enter into repayment agreement, or fails to meet terms of repayment agreement | Not specified |

**Return of Title IV Funds Requirements for Notifications**

| Party Responsible | Notification | Requirements |
|---|---|---|
| School | **Consumer Information** | • School's withdrawal policy<br>• School's refund policy<br>• Office(s) designated to receive official notifications of intent to withdraw<br>• Requirements regarding the return of Title IV funds |
| School | **Written notification of student's eligibility for post-withdrawal disbursement of funds in excess of outstanding current charges (educationally related)** | • Identify type and amount of Title IV funds that make up post-withdrawal disbursement not credited to student's account<br>• Explain that student or parent may accept all or part of disbursement<br>• Advise student or parent that no post-withdrawal disbursement will be made unless school receives response within 14 days of date school sent notice |
| School | **Response (written or electronic) to late request for post-withdrawal disbursement (that school chooses not to make)** | • Outcome of request |
| School | **Repayment Agreement** | • Terms permitting student to repay overpayment while maintaining eligibility for Title IV funds<br>• Repayment in full within 2 years of date school determined student withdrew |

## Withdrawal Dates for a School That Is Not Required to Take Attendance

| **Withdrawal Type** | **Circumstance** | **Student's Withdrawal Date**[1] | **Date of the Institution's Determination that the Student has Withdrawn**[2] |
|---|---|---|---|
| **Official Notification** | The student begins the school's withdrawal process, or<br>The student otherwise provides official notification to the school of intent to withdraw. | The date the student begins the school's withdrawal process, or<br>The date that the student otherwise provides the notification.<br>(If both circumstances occur, use the earlier withdrawal date.) | The date the student provides official notification or begins the withdrawal process whichever is later. |
| **Official Notification Not Provided** | Official notification not provided by the student because of circumstances beyond the student's control.<br>All other instances where student withdraws without providing official notification. | The date that the school determines is related to the circumstance beyond the student's control.<br>The midpoint of the payment period or period of enrollment, as applicable. | The date that the school becomes aware that the student has ceased attendance. |
| **Leave of Absence Related** | The student does not return from an approved leave of absence, or<br>The student takes an unapproved leave of absence. | The date that the student began the leave of absence. | The earliest of the dates of the end of the leave of absence or the date the student notifies the school he or she will not be returning to that school. (In the case of a an unapproved absence, the date that the student began the leave of absence.) |
| **Withdrawal After Rescission of Official Notification** | The student withdraws after rescinding a previous official notification of withdrawal. | The student's original withdrawal date from the previous official notification. | The date the school becomes aware that the student did not, or will not, complete the program period or period of enrollment. |

1. In place of the dates listed, a school may always use as a student's withdrawal date the student's last date of attendance at an academically related activity, if the school documents that the activity is academically related and that the student attended the activity.

2. For a student who withdraws without providing notification to the school, the school must determine the withdrawal date no later than 30 days after the end of the earlier of the (1) payment period or period of enrollment (as appropriate), (2) academic year, or (3) educational program.

# Consumer Information

CHAPTER 7

*This chapter provides information on the requirements for the consumer information that a school must provide to students, the Department, and others.*

In addition to the disclosure of general information required under the consumer information regulations, there are specific disclosure requirements with which schools must comply.

**Consumer Information Cites**
*34 CFR 668.41, 668.42, 668.43, 668.44*

Those disclosure requirements include:

**Student Right-To-Know and the Cleary (Campus Security) Act:**

- Annual Security Report: Institutional Security Policies and Crime Statistics
- Information on Completion or Graduation Rates
- Report on Completion or Graduation Rates for Student Athletes

**Equity in Athletics Disclosure Act:**

- Report on Athletic Program Participation Rates and Financial Support Data

Schools that participate in the campus-based programs must also comply with disclosure requirements for drug and alcohol abuse prevention. Although some of these disclosure requirements contain common elements, each disclosure is required separately. (see the chart *School Disclosure Requirements* on the next page )

As part of the continuing effort to reduce the number of defaulted federal student loans, it is important to provide students with information necessary for choosing an appropriate academic program and for fully understanding the responsibility of loan repayment. This chapter briefly addresses required loan counseling, but the loan counseling requirements are covered in detail in *Volume 5 — Perkins* Loans and Volume *8 — Direct Loan and FFEL Programs.*

This chapter also includes a summary of the effects of misrepresentation of institutional information on a school's SFA participation.

Generally speaking, the Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) include electronic media in the means a school may use to provide required consumer information to students. The Amendments also clarify that a school must make the information available upon request to both currently enrolled and prospective students and in the case of the campus crime report, prospective employees.

## SCHOOL DISCLOSURE REQUIREMENTS

### *Student Right-to-Know and Campus Security Act of 1990*

Campus Security Final Regulations published April 29, 1994; effective July 1, 1994; Technical Corrections published June 30, 1995; Final Regulations revised and published Nov. 1, 1999; effective July 1, 2000. REQUIRES: Disclosure of data on crimes committed on campus and campus safety policies and procedures (34 CFR 668.46).

Student Right-to-Know Final Regulations published December 1, 1995; effective July 1, 1996; Final Regulations revised and published Nov. 1, 1999; effective July 1, 2000. REQUIRES: Disclosure of graduation or completion rates and transfer-out rates for:

1) the general population of full-time, first-time degree or certificate-seeking, undergraduate students (34 CFR 668.45), and

2) students who receive athletically-related student aid, broken down by race and gender within sports (34 CFR 668.48).

### *Equity in Athletics Disclosure Act*

Final Regulations published November 29, 1995; effective July 1, 1996; updated Final Regulations revised and published November 1, 1999; effective July 1, 2000. REQUIRES: Disclosure of data on participation rates and financing of men's and women's sports in intercollegiate athletic programs at coeducational schools.

ALSO REQUIRED: Data on revenues, total expenses, and operating expenses of intercollegiate athletic programs. This provision was formerly found in the Program Participation Agreement section of the law and was implemented in final regulations published April 29, 1994; effective July 1, 1994. The Amendments of 1998 moved the provision to the EADA section of the law (34 CFR 668.47).

Note that in some cases a school is only required to make information available upon request, while in others the school must directly distribute the required information.

Each year a school must provide to enrolled students a list of the information it must disseminate under the Higher Education Act of 1965, as amended, and the Family Education Rights and Privacy Act (FERPA) and the procedures for obtaining the information. **Schools must provide this notice through a one-on-one distribution.** For this requirement, a general announcement whether in writing or electronically is not sufficient.

# BASIC CONSUMER INFORMATION REQUIREMENTS

Subpart D of the General Provisions lists basic information about the school and about financial aid that must be available to enrolled and prospective students. If necessary, these materials must be prepared by the school. However, much of the required data may already be available in brochures and handouts routinely disseminated by the school or in federal publications such as *The Student Guide*. You can find a chart summarizing a school's consumer information disclosure responsibilities at the end of this chapter.

**Financial Assistance Information Cite**
*34 CFR 668.42*

**Note:** Schools should not confuse the requirements and methodologies for providing information to students and other consumers with the requirement for reporting similar information to the Department.

## *Financial Aid Information*

At a minimum, the following information must be provided about financial assistance available at a school :

- the need-based and non-need-based federal financial aid is available to students;
- the need-based and non-need based state and local aid programs, school aid programs, and other private aid programs that are available;
- how students apply for aid and how eligibility is determined;
- how the school distributes aid among students;
- the rights and responsibilities of students receiving aid;
- how and when financial aid will be disbursed;
- the terms and conditions of any employment that is part of the financial aid package;
- the terms of, the schedules for, and the necessity of loan repayment and required loan exit counseling;
- the criteria for measuring satisfactory academic progress, and how a student who has failed to maintain satisfactory progress may reestablish eligibility for federal financial aid;
- information on preventing drug and alcohol abuse;
- information regarding the availability of SFA program funds for study abroad programs;

- that a student may be eligible for SFA program funds for attending a study abroad program that is approved for credit by the home school; and

- the terms and conditions under which students receiving federal education loans may obtain deferments while serving (a) in the Peace Corps; (b) under the Domestic Volunteer Service Act; and (c) as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service.

## *General Information about the School*

**General Information Cite**
*34 CFR 668.43*

The school must provide the following minimum information about itself:

- the names of associations, agencies, and/or governmental bodies that accredit, approve, or license the school and its programs, and the procedures by which a student may receive a copy for review of the school's accreditation, licensure, or approval;

- special facilities and services available to disabled students;

- the costs of attending the school (tuition and fees, books and supplies, room and board, and applicable transportation costs, such as commuting) and any additional costs of the program in which the student is enrolled or has expressed an interest;

- a statement of the requirements for the return of SFA program funds when a student withdraws from school, information about any refund policy with which the school must comply, and the requirements for officially withdrawing from the school. (For more information about the return of Title IV aid, see chapter 6.)

- the degree programs, training, and other education offered;

- the availability of a GED program, if the school admits students who do not have a high school diploma or equivalent;

- the instructional, laboratory, and other physical plant facilities associated with the academic programs;

- a list of the faculty and other instructional personnel;

- the satisfactory progress standards that students must maintain;

- who to contact for information on student financial assistance and who for general institutional issues; and

- the school's campus security report, as discussed under *Campus Security* later in this chapter.

The school must have someone available during normal operating hours to help persons obtain consumer information. One full-time employee or several persons may be assigned so that someone is always available (with reasonable notice) to assist enrolled or prospective students and their families. Existing personnel may satisfy this requirement. A school may request a waiver of this requirement if it can demonstrate that a waiver is appropriate. A school should contact Case Management and Oversight for more information. (You can find a chart containing contact information for the Case Management division at the end of chapter 11.)

## CONSUMER INFORMATION FROM THE DEPARTMENT

The Department is required to make available to schools, lenders, and secondary schools descriptions of the SFA programs in order to assist students in gaining information through institutional sources, and to assist schools in carrying out the SFA program requirements. The Department does this through a variety of informational sources such as *The Student Guide*, this *Handbook*, and the Department's Web page

www.ifap.ed.gov

**Consumer Information from the Department**
*Sec. 484(d)*

The Amendments of 1998 required the Department, to the extent possible to:

- compile and disseminate information describing state and other prepaid tuition and savings programs;
- making clear that linking to a database is not an endorsement of the database, update its Internet site to include direct links to databases with information on public and private financial assistance programs that are accessible without charge;
- provide additional direct links to resources from which students may obtain information about fraudulent and deceptive financial aid practices; and
- make a reasonable effort to verify that linked databases do not contain fraudulent information.

This information is available at

www.students.gov

## STUDENT RIGHT-TO-KNOW DISCLOSURES

**Student Right to Know Cite**
*Sec. 485(a)*
*34 CFR 668.46*

Student Right-to-Know disclosures must be made by July 1 of each year.

The Student Right-to-Know Act requires schools to disclose:

1. Completion or graduation rates and, if applicable transfer-out rates for a specific cohort of the general student body. This cohort is of certificate- or degree-seeking, full-time, first-time undergraduate students.

2. Completion or graduation rates and, if applicable, transfer out rates of students receiving athletically related student aid, if the institution offers athletic aid. The institution must provide student-athlete graduation rate information to potential student-athletes, their parents, and their high school coaches and guidance counselors upon making an offer of athletic aid.

The cohort year is September 1-August 31; the report must be available by the following July 1.

Schools must make available no later than July 1, 2001, the rates for the cohort for which the 150% of the normal time for completion elapsed between September 1, 1999 and August 31, 2000.

Prior to the Amendments of 1998, all schools were required to disclose transfer-out rates. **Now, a school is required to calculate and disclose its transfer-out rates only if it determines that its mission includes providing substantial preparation for its students to enroll in another eligible school (such as a community college).**

In addition to calculating the completion or graduation rates described above, a school **may, but is not required** to calculate:

1. A completion or graduation rate for students who transfer into the school;

2. A completion or graduation rate and transfer-out rate for the students described as *exclusions* to the requirements in this section.

   Schools may exclude from all cohorts students who:

   - have left school to serve in the Armed Forces,
   - have left school to serve on official church missions,
   - have left school to serve with a foreign aid service of the Federal Government, such as the Peace Corps,
   - are totally and permanently disabled; or

- are deceased.

3. A transfer-out rate.

For the cohort rates and rates related to athletically related student aid, schools must disclose information on completion rates and if applicable transfer-out rates on certificate- or degree-seeking, full-time undergraduate students who enter the school between September 1 and August 31 of the following year.

## Determining the Cohort for Completion or Graduation and Transfer-Out Rates

**Determining Rate Cite**
*34 CFR 668.45*

To calculate completion or graduation and transfer-out rates, a school must identify a group of students each year (a cohort) and monitor the cohort over time to determine the percentage of those students who complete their programs or transfer out of the school. The same *snapshot* approach is used to determine rates for both the general student body cohort and those rates related to athletically related student aid. The regulations specify which cohort a school must use, based on the programs that the school offers.

To achieve greater consistency between term and nonterm institutions, the following changes were implemented through Negotiated Rulemaking in 1999:

**For programs less than or equal to one academic year in length,** schools should include in the cohort only students who are enrolled for at least 15 days.

**For programs longer than one academic year**, schools should include in the cohort only students who are enrolled for at least 30 days.

### Standard-Term Schools

A school that offers most of its programs based on standard terms (semesters, trimesters, quarters) must use a fall cohort for these calculations. That is, the school must count all first-time freshmen who are certificate- or degree-seeking, full-time undergraduate students who enter the school during the fall term. For a fall cohort, a student has entered the school if he or she enrolled for the fall term (or during the summer immediately preceding the fall term) and is still enrolled as of October 15, the end of the school's drop-add period for the fall term, or another official reporting date (in the fall) on which a school must report fall enrollment data to either the state, its board of trustees or governing board, or another external governing body.

### Nonstandard Term or Non-Term Schools

A school that does not offer most of its programs based on standard terms must count all first-time students who are certificate- or degree-seeking, full-time undergraduate students who enter the school between September 1 of one year and August 31 of the following year. For a cohort for nonstandard term and nonterm schools, a student has entered the school if he or she has attended at least 15 days in a program of up to and including, one year in length or 30 days, in a program of greater than one year in length.

Schools may not include students who transfer into the school from another school as entering students for purposes of these calculations. However, if a school chooses, it may calculate as a separate supplemental rate, a completion rate for students who transfer into the school .

## Definitions

The definitions of certificate- or degree-seeking students, first-time freshman students, and undergraduate students were adopted from the National Center for Education Statistics (NCES) Integrated Postsecondary Education Data System (IPEDS) Graduation Rate Survey (GRS).

*Certificate- or degree-seeking student:* a student enrolled in a course for credit who is recognized by the school as seeking a degree or certificate.

*First-time undergraduate student:* an entering undergraduate who has never attended an institution of higher education. Includes a student enrolled in the fall term who attended a postsecondary institution for the first time in the prior summer term, and a student who entered with advanced standing (college credit earned before graduation from high school).

*Undergraduate students:* students enrolled in a 4- or 5-year bachelor's degree program, an associate's degree program, or a vocational or technical program below the baccalaureate level.

Schools must use the SFA definition of a *full-time student* that is found in the Student Assistance General Provisions regulations (see *Volume 1 — Student Eligibility*).

## *Waivers*

**Waivers Cite**
*34 CFR 668.45*

The regulations provide for a waiver of completion or graduation rate and transfer-out rate calculations for the general student body cohort and for athletic data for any school that is a member of an athletic association or conference that has voluntarily published (or will publish) completion or graduation data that the Department determines are substantially comparable to the data required by the regulations.

The Amendments of 1998 allow the NCAA to distribute graduation rate information to all secondary schools in the U.S. to satisfy the distribution requirements for prospective student athletes' guidance counselors and coaches. This does not relieve the school of its obligation to provide the information the prospective student-athletes and their parents.

The Department will continue to work with interested agencies to help them develop standards that meet these requirements. If in the future the Department determines that another agency's requirements meet the standards of the Student Right-to-Know Act, the Department will inform schools that those rates may be used to satisfy the Student Right-to-Know requirements.

## *Reporting Information on Completion or Graduation Rates for the General Student Body Cohort*

The requirements for disclosing this information have been broken down into three steps: determining the cohort, calculating the rates, and disclosing the rates.

### Step 1: Determining the cohort

Schools must determine the cohort as described under *Determining the Cohort for Completion or Graduation and Transfer-Out Rates* to identify students in such a way that it can take a snapshot of those same students at a later time.

### Step 2: Calculating the rates

Once a school has identified a cohort, it must determine how many of those students graduated or completed their program and, if applicable, how many transferred out of their program at the point in time when 150% of the normal time for completion of each program has elapsed for all of the students in the cohort.

#### *Normal time*

Normal time is the amount of time necessary for a student to complete all requirements for a degree or certificate according to the school's catalog. This is typically

- four years (eight semesters or trimesters, or 12 quarters, excluding summer terms) for a bachelor's degree in a standard term-based school,
- two years (four semesters or trimesters, or six quarters, excluding summer terms) for an associate degree in a standard term-based school, and
- the scheduled times for certificate programs.

The following formula is used to calculate a completion rate for the general student body cohort:

$$\frac{\text{Number of students in cohort who completed their program within 150\% of normal time for completion}}{\text{Number of students in cohort (minus permitted exclusions)}}$$

### *Completor/Graduate*

A student is counted as a completor or graduate if

- the student completed his or her program within 150% of the normal time for completion of the program, or
- the student has completed a transfer preparatory program within 150% of the normal time for completion of that program.

**Preparatory Program Cite**
*34 CFR 668.8(b)(1)(ii)*

### *Transfer preparatory program*

At least a two-year program that is acceptable for full credit toward a bachelor's degree and qualifies a student for admission into the third year of a bachelor's degree program.

### *Transfer-out rate*

The following formula is used to calculate a transfer-out rate for the general student body cohort:

$$\frac{\text{Number of students in cohort who transferred out of their program within 150\% of normal time for completion}}{\text{Number of students in cohort (minus permitted exclusions)}}$$

### *Definition of a transfer-out student*

A student is counted as a transfer-out student if, within 150% of the normal time for completion of the program, the student has transferred out of the program and enrolled in any program of another eligible institution for which the prior program provides substantial preparation. A school is required to report only on those students that the school knows have transferred to another school. A school must document that the student actually transferred.

## Step 3: Disclosing the rates

The information on completion, graduation rates and, if applicable, transfer out rates must be disclosed by the July 1 immediately following the expiration of 150% of normal time for the group of students on which the school bases its completion and transfer-out rate calculation.

Schools must disseminate the information on completion or graduation and, if applicable, transfer-out rates to enrolled and prospective students upon request, through appropriate publications, mailings, or electronic media (for example, school catalogs or admissions literature). Schools are strongly encouraged to provide this information to other interested parties, such as guidance counselors, upon request.

## EXAMPLE: Determining completion or graduation and transfer-out rates for the general student body

### Step 1: Determining the cohort

Tower of London College (TLC) has both two-year and four-year degree programs. It operates on a semester basis, so it used a fall cohort.

During its 1997 fall semester, TLC had enrolled 1,000 full-time first-year freshmen in degree programs. It tagged those students as its 1997 cohort.

### Step 2: Calculating the rates

On August 31, 2001 150% of normal time for completion of the two-year program elapsed . In September of 2004 (after the 150% of normal time for completion of the four-year program elapsed), TLC searched its records to see how many of the 1,000 students in the cohort had completed a two-year degree as of August 31, 2001. It found that 250 students had completed such a degree. It noted both the number and identity of those students. TLC noted the identity of the students so that it would be able to determine if any of the 250 students also obtained a four-year degree and must be treated as duplicates (see below).

It also found that 35 students from the cohort received a two-year degree between September 1, 2001 and August 31, 2004. TLC was unable to count these students as completors for Student Right-to-Know purposes, as they had completed the program after more than 150% of normal time for completion had elapsed; however, TLC chose to use this data as supplemental information.

Since TLC's mission includes substantial preparation for its students to enroll in another eligible institution, it also determined the number of transfer-out students in the two-year program by ascertaining the number of students in the cohort for which it had documents showing that the student had transferred to, and begun classes at, another school. It found that it had documentation on 50 such students.

On August 31, 2004 150% of the normal time for completion of the four-year program elapsed. In September of 2004, TLC determined how many of the 1,000 students had received a four-year degree as of August 31, 2004. It found that 450 students had done so.

Because TLC had identified the completors of the two-year program, it was able to determine that 10 of the students it had counted as two-year completors had also received a four-year degree. TLC is not permitted to count these students as completors twice, so it deducted

*Example Continued*

the number from the number of two-year degree program completors (it could also have deducted them from the number of four-year completors had it so chosen).

TLC surveyed its records to determine the number of students from the cohort in the four-year program that it could document as having transferred as of August 31, 2004. It found 65 students had done so.

To determine if any of the students could be excluded from the cohort, TLC searched its records for documentation. The records showed that a total of 15 students in the original cohort had left the institution for the express purpose of joining a church mission, the armed forces, or a foreign aid program sponsored by the federal government, or had died or become totally and permanently disabled.

TLC calculated its completion rate and transfer-out rate as follows:

√ 250 four-year program completors + (250 two-year program completors - 10 duplicates)

√ 1,000 students in cohort - 15 permitted exclusions

√ Completion rate = 70%

√ 65 four-year program transfers + 50 two-year transfers

√ 1,000 students in cohort - 15 permitted exclusions

Transfer-out rate = 11.6%

### Step 3: Disclosing the rates

On July 1, 2005 (the July 1 following the expiration of 150% of normal time for the entire cohort), TLC published its completion rate and its transfer-out rate for the students who had entered in the fall of 1997.

TLC decided to provide separate, supplemental information regarding the completion and retention rates of its part-time students because it has a large part-time-student population. It also provided separate, supplemental information on the number of students who completed the two-year program after four years and after five years. It could have also provided separate, supplemental information on students who transferred into the school from another school had it so wished.

*Example Continued*

**Reporting Cite**
*34 CFR 668.48*

## *Reporting information on completion or graduation rates for student athletes*

Schools that participate in an SFA program and offer athletically related student aid must provide information on completion or graduation rates, transfer-out rates, if applicable, and other statistics for students who receive athletically related student aid to potential student athletes, and to their parents[1], high school coach, and guidance counselors.

The definition of athletically related student aid used here is the same definition that is used for the EADA disclosure requirements (see *Definitions*). The definitions of certificate- or degree-seeking student, first-time undergraduate student, undergraduate students, and normal time are the same as those used for the calculation of completion or graduation and transfer-out rates for a school's general student body cohort (discussed above).

### Step 1: Determining the cohort

A school must determine the cohort as described under *Determining the Cohort for Completion or Graduation and Transfer-Out Rates.*

### Step 2: Calculating the rates for completion or graduation for student athletes

Schools that provide athletically related student aid must report three completion rates and three transfer-out rates:

- a completion or graduation rate and, if applicable, a transfer-out rate for the general student body,
- a completion or graduation rate and, if applicable, a transfer-out rate for the members of the cohort who received athletically related student aid (this rate is calculated in the same manner as the rates for the general student body, but must be broken down by race and gender within each sport), and
- the *four-year average* completion or graduation rate and, if applicable, the average transfer-out rate for the four most recent completing classes of the cohort categorized by race and gender for the general student population, and for race and gender within each sport. (A school that doesn't have data for four years should report an average completion rate for all the years for which it had data.)

Information that is required to be reported by sport must be broken down into the following categories:

- basketball,
- football,

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- baseball,
- cross-country and track combined, and
- all other sports combined.

In addition to the completion rates and transfer-out rates, schools must report

- the number of students, categorized by race and gender, who attended the school during the year prior to the submission of the report, and
- the number of those attendees who received athletically related student aid, categorized by race and gender.

A school may exclude from the athletic cohort the student-exceptions specified on page 2-182.

## Step 3 - Disclosing the rates for student athletes

The report must be completed and submitted to the Department by the GRS deadline. A school must also provide the report to each prospective student athlete and his or her parents, coaches, and counselor when an offer of athletically related student aid is made to the prospective student-athlete.

Schools are not required to provide completion rate information for students who entered before the 1996-97 academic year. However, if a school has data on students entering prior to the 1996-97 academic year (as the result of NCAA requirements, for example), the school should report these data in the four-year averages.

Schools that are not yet reporting completion or graduation rate or, if applicable, transfer-out rates because they do not have the necessary data must still disclose the additional data regarding the number of students who attended the previous year, categorized by race and gender, and the number who attended the previous year and who received athletically related student aid, categorized by race and gender within each sport.

There is a *de minimus* exception to the disclosure requirements for the completion or graduation rates or, if applicable, the transfer-out rates of student athletes that allows schools not to disclose those rates for categories that include five or fewer students.

## Supplemental Information

Schools may provide additional information to place their completion or transfer-out rates for both the general student body and those related to athletically related student aid in context. For example, a small school's completion rate may vary greatly from year to year because the school's calculations use a very small cohort. The school may wish to provide prior years data and an explanation of factors affecting the completion rate.

## EQUITY IN ATHLETICS

Regulations published November 29, 1995, implemented the provision of the Improving America's Schools Act of 1994 titled the Equity in Athletics Disclosure Act (EADA). The EADA is designed to make prospective students aware of a school's commitment to providing equitable athletic opportunities for its men and women students.

**Equity in Athletics Cite**
*Sec. 485(g)*
*34 CFR 668.47*

The Higher Education Amendments of 1992 added language to the PPA concerning additional administrative requirements for institutions offering athletically related student aid. The Amendments of 1998 moved these provisions into the section of the law that addresses Equity in Athletics. These requirements now fall under the reporting requirements of the EADA.

Any coeducational institution of higher education that participates in an SFA program and has an intercollegiate athletic program must prepare an annual EADA report. The report contains participation rates, financial support, and other information on men's and women's intercollegiate athletic programs. It is referred to as the *Report on Athletic Program Participation Rates and Financial Support Data* (34 CFR 668.47).

### *Disclosure of the Report*

The EADA requires schools to make this report available upon request to students, prospective students, and the public in easily accessible places. For example, a school may make copies of the report physically available in intercollegiate athletic offices, admissions offices, or libraries, or by providing a copy to every student in his or her electronic mailbox.

A school make a **one-on-one disclosure** to all students and prospective students of their right to request the information. The disclosure must include a summary of the information that may be requested. The school may publish a notice at least once a year in a school publication, the school catalog, registration materials, or intercollegiate athletic department publications so long as the publication is **distributed individually to all students**.

A school must provide the report promptly to anyone who requests the information. For example, a school may not refuse to provide a copy of the report to the news media, and the school may not require an individual requesting the information to come to the school to view the report.

A school may not charge a fee to students, potential students, parents, or coaches who ask for the information; however, schools are not prohibited from charging members of the general public a fee to cover copying expenses only.

Reports must be compiled and made available each year by October 15. Schools must submit their Equity in Athletics reports to the Department annually within 15 days of making available to students, prospective students and the public. Using ids previously supplied to their institutions' chief administrators, schools report EADA data on-line at

http://surveys.ope.ed.gov/athletics

Additional information on the collection of EADA data will posted, as it becomes available, on the Department's Web site at:

http://www.ed.gov/offices/OPE/News/

The Department had to submit a report to Congress by April 1, 2000, that summarized the information reported by schools and identified trends in the information, aggregated the information by divisions of the NCAA, and contained information on each individual school. In addition, the Department had to ensure that the individual school reports and the report to Congress were made available to the public within a reasonable period of time.

Finally, the Department must notify all secondary schools in all states regarding the availability of information in the report to Congress and of the individual school reports and how such information may be accessed.

## *Contents of the Equity in Athletics/EADA Report*

A school must first designate its reporting year. A reporting year may be any consecutive 12-month period of time. For its designated reporting year, a school must report:

1. the number of male and female full-time undergraduate students that attended the school (undergraduate students are those who are consistently designated as such by the school),

2. the total amount of money spent on athletically-related student aid (including the value of waivers of educational expenses aggregately) for: 1) men's teams and 2) women's teams,

3. the ratio of athletically-related student aid awarded to male athletes to athletically-related student aid awarded to female athletes (see the definition of athletically related student aid under *Definitions*),

4. the expenses incurred by the school for:

   - total expenses for all sports,

- football,
- men's basketball,
- women's basketball,
- all other men's sports except football and basketball, and
- all other women's sports except basketball.

Expenses not attributable to a particular sport, such as general and administrative overhead, must be included only in the total expenses for all sports.

5. total recruiting expenses aggregately for (a) all men's teams and (b) all women's teams, and
6. total annual revenues for (a) all sports combined, (b) all men's teams, (c) all women's teams, (d) football, (e) men's basketball, (f) women's basketball, (g) all men's sports other than football and basketball, and (h) all women's sports other than basketball.

A school may also report by individual teams these revenues:

1. the average annual institutional salary of non volunteer head coaches for all offered sports of (a) men's teams and (b) women's teams – this must include the number of persons and full-time equivalent positions used to calculate each average;[2]
2. the average annual institutional salary of non volunteer assistant coaches for all offered sports of (a) men's teams and (b) women's teams. This must include the number of persons and full-time equivalent positions used to calculate each average.
3. a listing of the varsity teams that competed in intercollegiate athletic competition and for each team, the following data:
    a. total number of participants as of the day of the first scheduled contest of the reporting year for the team, number of those who participated on more than one varsity team, and number of other varsity teams on which they participated;
    b. total operating expenses (expenditures on lodging and meals, transportation, officials, uniforms, and equipment) attributable to the team;[3]

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[2] If a head coach had responsibility for more than one team and a school does not allocate that coach's salary by team, the school must divide the salary by the number of teams for which the coach had responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

[3] A school also may report those expenses on a per capita basis for each team and may report combined expenditures attributable to closely related teams, such as track and field or swimming and diving. Those combinations must be reported separately for men's and women's teams.

c. gender of the head coach (including any graduate assistant or volunteer who served as head coach) and whether he or she was assigned on a full-time or part-time basis, and if assigned on a part-time basis, whether he or she was a full-time or part-time employee of the school,

d. number of male assistant coaches (including any graduate assistants or volunteers who served as assistant coaches) and whether each was assigned on a full-time or part-time basis, of those assigned on a part-time basis, the number who were full-time and part-time employees of the school,

e. number of female assistant coaches (including any graduate assistants or volunteers who served as assistant coaches) and whether each was assigned on a full-time or part-time basis, and of those assigned on a part-time basis, the number who were full-time and part-time employees of the school; and

f. an unduplicated head count of the individuals who were listed as participants on at least one varsity team, by gender.

## Definitions

*Recruiting expenses* are all expenses schools incur for recruiting activities, including, but not limited to, expenditures for transportation, lodging, and meals for both recruits and institutional personnel engaged in recruiting, all expenditures for on-site visits, and all other expenses related to recruiting.

*Institutional salary* is all wages and bonuses a school pays a coach as compensation attributable to coaching.

In addition to teams that are designated as *varsity* by the school or an athletic association, varsity teams include any team that primarily competes against other teams that are designated as varsity.

*Participants* on varsity teams include not only those athletes who take part in a scheduled contest but also any student who practices with the team and receives coaching as of the day of the first scheduled intercollegiate contest of the designated reporting year. This includes junior varsity team and freshmen team players if they are part of the overall varsity program. Schools should also include all students who receive athletically related student aid, including redshirts, injured student athletes, and fifth-year team members who have already received a bachelor's degree.

*Operating expenses* are expenditures on lodging and meals, transportation, officials, uniforms, and equipment.

*Athletically related student aid* is any scholarship, grant, or other form of financial assistance offered by the school, the terms of which require the recipient to participate in a program of intercollegiate athletics at the school in order to be eligible to receive such assistance.

*Prospective students* are individuals who have contacted the school to inquire about enrolling at the school or who have been contacted directly by the school or indirectly through general advertising about enrolling at the school. Nature of Educational Program Cite

## LOAN COUNSELING

Before a Federal Perkins, FFEL, or Federal Direct Loan borrower takes out a loan, the school must counsel that borrower, individually or in a group with other borrowers. The school must give the borrower general information on the average anticipated monthly repayments on the loan, available repayment options, and advice on debt management planning to facilitate repayment, deferment/cancellation provisions, if applicable, and other terms and conditions. This loan counseling must also be provided before the borrower completes his or her course of study or otherwise leaves the school. For a complete discussion of loan counseling requirements, please see *Volume 5 — Perkins Loans,* and *Volume 8 — Direct Loan and FFEL Programs.*

## DRUG AND ALCOHOL ABUSE PREVENTION INFORMATION

A schools that participates in the campus-based programs must provide information under the Drug-Free Workplace Act of 1988 (Public Law 101-690), including a notice to its employees of unlawful activities and the actions the school will take against an employee who violates these prohibitions. In addition, the Drug-Free Schools and Communities Act (Public Law 101-226) requires a school that participates in any SFA program to provide information to its students, faculty, and employees to prevent drug and alcohol abuse.

### *Information to be included in drug prevention materials*

A school must provide the following in its materials:

- standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of drugs and alcohol by students and employees on the school's property, or as part of the school's activities;

- a description of the sanctions under local, state, and federal law for unlawful possession, use, or distribution of illicit drugs and alcohol;

- a description of any drug and alcohol counseling, treatment, or rehabilitation programs available to students and employees;

- a description of the health risks associated with the use of illicit drugs and alcohol; and

- a clear statement that the school will impose sanctions on students and employees for violations of the standards of conduct (consistent with local, state, and federal law) and a description of these sanctions, up to and including expulsion, termination of employment, and referral for prosecution.

The Appendices and Comments and Responses sections of the August 16, 1990, regulations provide additional guidance and information for schools to use in developing these materials.

### *Distribution of Materials to All Students and Employees*

The school may include this information in publications such as student or employee handbooks, provided that these publications are distributed to each student and employee. Merely making drug prevention materials available to those who wish to take them is not sufficient. The school must use a method that will reach every student and employee, such as the method used to distribute grade reports or paychecks. The school must distribute these materials annually. If new students enroll or new employees are hired after the initial distribution for the year, the school must make sure that they also receive the materials. (For more information on antidrug abuse requirements, see chapter 2.)

## MISREPRESENTATION

The General Provisions regulations permit the Department to fine a school, or limit, suspend, or terminate the participation of any school that substantially misrepresents the nature of its educational program, its financial charges, or the employability of its graduates.

### *Definition of Misrepresentation*

**Misrepresentation Cite:**
*34 CFR Subpart F*

*Misrepresentation* is any false, erroneous, or misleading statement made to a student or prospective student, to the family of an enrolled or prospective student, or to the Department. This includes disseminating testimonials and endorsements given under duress.

*Substantial Misrepresentation* is any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person's detriment.

Misrepresentation of the educational program includes false or misleading statements about the school's accreditation or the school's size, location, facilities, or equipment. Misrepresentation of financial charges includes false or misleading statements about scholarships provided for the purpose of paying school charges. To be considered a scholarship, a grant must actually be used to reduce tuition charges made known to the student before the scholarship was offered to the student. (The tuition charges must be charges that are applied to all students whether or not they are receiving a scholarship.) It is also considered misrepresentation if the school gives false or misleading information as to whether a particular charge is a customary charge for that course at the school.

Misrepresentation includes making any false or misleading statements about the employability of the school's graduates

The regulatory provisions concerning misrepresentation are given in detail below.

## *Nature of Educational Program*

**Misrepresenting Educational Program Cite**
*34 CFR 668.72*

Misrepresentation by an institution of the nature of its educational program includes, but is not limited to, false, erroneous, or misleading statements concerning:

- the particular types, specific sources, nature, and extent of its accreditation;
- whether a student may transfer course credits earned at the institution to any other institution;
- whether successful completion of a course of instruction qualifies a student for acceptance into a labor union or similar organization or receipt of a local, state, or federal license or a nongovernment certification required as a precondition for employment or to perform certain functions;
- whether its courses are recommended by vocational counselors, high schools, or employment agencies, or by governmental officials for government employment;
- its size, location, facilities, or equipment;
- the availability, frequency, and appropriateness of its courses and programs to the employment objectives that it states its programs are designed to meet;
- the nature, age, and availability of its training devices or equipment and their appropriateness to the employment objectives that it states its programs and courses are designed to meet;
- the number, availability, and qualifications, including the training and experience, of its faculty and other personnel;
- the availability of part-time employment or other forms of financial assistance;
- the nature and availability of any tutorial or specialized instruction, guidance and counseling, or other supplementary assistance it will provide its students before, during, or after the completion of a course;

- the nature and extent of any prerequisites established for enrollment in any course; or
- any matters required to be disclosed to prospective students under 34 CFR 668.44 (institutional information) and 34 CFR 668.47 (campus security information).

### Nature of Financial Charges

**Misrepresenting Financial Charges Cite**
*34 CFR 668.73*

Misrepresentation by an institution of the nature of its financial charges includes, but is not limited to, false, erroneous, or misleading statements concerning

- offers of scholarships to pay all or part of a course charge, unless a scholarship is actually used to reduce tuition charges that are applied to all students whether or not receiving a scholarship and are made known to the student in advance; or
- whether a particular charge is the customary charge at the institution for a course.

### Employability of Graduates

**Employability of Graduates Cite**
*34 CFR 668.74*

Misrepresentation by an institution regarding the employability of its graduates includes, but is not limited to, false, erroneous, or misleading statements

- that the institution is connected with any organization or is an employment agency or other agency providing authorized training leading directly to employment;
- that the institution maintains a placement service for graduates or will otherwise secure or assist its graduates to obtain employment, unless it provides the student with a clear and accurate description of the extent and nature of this service or assistance; or
- concerning government job market statistics in relation to the potential placement of its graduates.

## CAMPUS SECURITY

### General Information

**Campus Security Cite**
*Sec. 485(f)*
*34 CFR 668.46*

The Department of Education is committed to assisting schools in providing a safe environment for students to learn and staff to work, and in keeping parents and students well informed about campus security. To this end Dear President letter ANN-96-5, issued jointly by the Department of Education, the Justice Department, and the Department of Health and Human Services in September 1996, provides suggestions to schools for use in developing and implementing a comprehensive policy to combat violence against women on campus.

The letter lists the following Web sites as possible resources:

- Department of Justice Violence Against Women Office

  www.ojp.usdoj.gov/vawo/

- Department of Education World Wide Web site on campus safety

  www.ed.gov/offices/ope/ppi/security.html

- Higher Education Center for Alcohol and other Prevention World Wide Web site

  www.edc.org/hec/

**The Department is strongly committed to enforcing the provisions of the Campus Security Act of 1990 requiring a school to compile an annual campus security report.**

The Amendments of 1998 made several changes to the campus security and disclosure requirements. General changes include:

- The portion of the law that addresses campus security issues is now called the *Jeanne Cleary Disclosure of Campus Security Policy and Campus Crime Statistics Act.*
- The identification of victims or of persons accused of committing crimes included in the campus crime report is prohibited.
- The campus security requirements may not be construed to require the reporting or disclosure of a victim's confidential information.
- The Department must report to Congress any school that the Department determines not to be in compliance with the campus crime reporting requirements.
- The Department must impose a civil penalty up to $25,000 if the Department determines that a school has substantially misrepresented the statistical information required to be reported.
- The Amendments clarify that these provisions do not cause a liability for a school or its employees or establish a standard of care.
- Evidence of compliance or noncompliance with the provisions is not admissible as evidence except for actions enforcing these requirements.

The changes resulting from negotiated rule making were published as final regulations on November 1, 1999. They are discussed below.

## *Distribution of the Campus Crime Report*

**Distribution Cite**
*34 CFR 668.41(e)*

By October 1 of each year, a school must publish and distribute its annual campus security report.

It must be distributed to all **enrolled students and current employees** directly by publications and mailings, including: direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail.

If the school chooses to fulfill this requirement by posting the crime report on an Internet or Internet Web site, an **individual notice must be distributed to each student and current employee** that includes:

- a statement of the report's availability,
- a list and brief description of the information contained in the report,
- the exact electronic address (URL) of the Internet or Internet Web site at which the report is posted, and
- a statement saying the school will provide a paper copy upon request.

If the school chooses to fulfill this requirement by posting the crime report on an Internet or Internet Web site, the notice described above must also contain:

- the exact electronic address (URL) at which the report is posted, and
- a statement that the school will provide a paper copy of the report upon request.

**Upon request, a school must provide its annual campus security report to a prospective student or prospective employee.**

**Annual Submission Cite**
*34 CFR 668.41(e)(5)*

Schools are required to submit the statistical section of their Annual Crime Report to the Department on an annual basis. To comply with the emerging requirements to communicate electronically with the public whenever possible, the survey data is collected through the Department's Campus Crime and Security Web site.

surveys.ope.ed.gov/security

The use of an electronic format will eliminate mailing and processing paper questionnaires, significantly reduce the reporting burden, and improve the timeliness of the data from institutions.

## Definition of campus

**Definition of a Campus Cite**
*34 CFR 668.46(a)*

Requirements regarding the campus security report must be met individually for each separate *campus*. The Amendments of 1998 have broken the former general definition of campus into three more specific categories: campus, non-campus buildings or property, and public property. The campus crime requirements must now be met for any location that meets one of these three definitions.

*Campus* includes

- any building or property (including residence halls) owned or controlled by a school within the same reasonably contiguous geographic area and used by the school in direct support of or in a manner related to its educational purposes.
- property within the same reasonably contiguous area that is owned by the school but controlled by another person, frequently used by students, and supports the school's purposes (such as a food or other retail vendor) (this portion of the definition was added by the Amendments of 1998).

The Amendments define the term *non-campus building or property* to mean

- any building or property owned or controlled by a student organization officially recognized by the school; and
- any building or property (other than a branch campus) owned or controlled by the school, that is **not** within the same reasonable contiguous area, is used in direct support of or in relation to the school's educational purpose, and is frequently used by the students (this portion was added by the Amendments).

The term *public property* means all public property including thoroughfares, streets, sidewalks, and parking facilities that is within the same campus or immediately adjacent to and accessible from the campus. This would not include, for example, highways that are adjacent to the campus, but that are separated from the campus by a fence or other man-made barrier. A school may use a map to visually illustrate the areas included in the definition of its campus.

## Timely Warning

**Timely Warning Cite**
*34 CFR 668.46*

In addition to the required annual campus security report, schools are required to provide timely warning to the campus community of any occurrences of the following crimes that are reported to campus security authorities or local police agencies and are considered to represent a continuing threat to students and employees, including:

- criminal homicide including, (a) murder and nonnegligent manslaughter, and (b) negligent manslaughter;

- forcible and nonforcible sex offenses;
- robbery;
- aggravated assault;
- burglary;
- motor vehicle theft; and
- arson;
- separately by category of prejudice, each crime listed above and any other crime involving bodily injury reported to local police agencies or to a campus security authority that shows evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity or disability;
- arrests for violations of drug law violations, and illegal weapons possession; and
- persons not arrested but referred for campus disciplinary action for liquor, drug, and weapons law violations.

A school is not required to provide timely warning with respect to crimes reported to a pastoral or professional counselor.

**Note:** A school must also include statistical and policy information related to these same crimes in its campus security report; see the discussion that begins on page 2-198.

## Campus Security Authority

**Campus Security Authority Cite**
*34 CFR 668.46(a)*

The following are campus security authorities:

1. a campus law enforcement unit;
2. any individual or individuals who have responsibility for campus security but who do not constitute a campus security department, such as an individual who is responsible for monitoring entrance into school property (e.g. an access monitor);
3. an individual or organization specified in a school's campus security statement as the individual or organization to which students and employees should report criminal offenses; and
4. an official of a school who has significant responsibility for student and campus activities including, but not limited to, student housing, student discipline, and campus judicial proceedings.

The definition of campus security authority includes others in addition to those individuals working for the school's campus security office or expressly performing a campus security function at the school's request. An official who has significant responsibility for student and campus activities is a campus security authority. For example, a dean of students who oversees student housing, a student center, or student extracurricular activities, has significant responsibility for student and campus activities. Similarly, a director of athletics, team coach, and faculty advisor to a student group also have significant responsibility for student and campus activities.

## Disciplinary action or proceeding

The investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

## Law enforcement unit

Any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or noncommissioned security guards, that is officially authorized or designated by that agency or institution to

- enforce any local, state, or federal law, or refer to appropriate authorities a matter for enforcement of any local, state, or federal law against any individual or organization other than the agency or institution itself, or

- maintain the physical security and safety of the agency or institution.

### Professional and pastoral counselors excluded from reporting requirements

Of itself, reporting a statistic is not likely to identify a victim. However, the need to verify the occurrence of a crime and the need for additional information about a crime to avoid double counting can lead to the identification of the victim. Therefore, in order to ensure that victims have access to confidential counseling, professional and pastoral counselors, as defined in the regulations are **not** required to report crimes discussed with them in their roles as counselors. Moreover, a school is not required to report statistics relating to crimes that are reported to a pastoral counselor or a professional counselor who is functioning within the scope of his or her license or certification. Other confidential reporting options are encouraged to obtain statistical data without infringing on an individual's expectation of confidentiality.

A *pastoral counselor* is a person who is associated with a religious order or denomination and who is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning as a pastoral counselor.

A *professional counselor* is a person whose official responsibilities include providing mental health counseling to members of the school's community and who is functioning within the scope of his or her license or certification.

## FERPA

The provisions of the Family Educational Rights and Privacy Act (FERPA) do not prohibit a school from complying with the campus security regulations. First, FERPA does not generally prohibit the disclosure of statistical, non-personally identifiable information. Second, as a matter of law, FERPA does not preclude a school's compliance with the timely warning requirement. The Department has concluded that as a later enacted, more specific statute, the Campus Security Act trumps FERPA's requirements against the release of personally identifiable information from a student's education record. Thus, institutions may make a timely warning report to the campus community on criminal activity, and even if the school discloses the identity of an individual, the school has not violated the requirements of FERPA.

Records created and maintained by a campus law enforcement unit are not education records and may be disclosed without a student's consent. In contrast, records of a disciplinary action or proceeding are considered education records of a student, and cannot be made available to the public without the consent of the student. FERPA does allow, however, a postsecondary institution to disclose the final results of disciplinary proceedings to a victim of an alleged perpetrator of a crime of violence or a nonforcible sex offense, regardless of the outcome. In addition, FERPA was recently amended to permit a postsecondary institution to disclose (to anyone) the final results of a disciplinary proceeding in which the institution concludes that a student violated school policy with respect to a crime of violence or a nonforcible sex offense. The offenses that apply to this permissible disclosure are listed in the FERPA regulations.

Institutions may seek additional guidance on FERPA by writing the Family Policy Compliance Office (FPCO) at FERPA@ED.Gov. The FPCO's Web site contains helpful information. Its address is: www.ed.gov/offices/OM/fpco.

**Clarification**

There are two different FERPA provisions concerning the release of records relating to a *crime of violence.* One concerns the release to the *victim* of any *outcome* involving an *alleged* crime of violence. This is found in section 99.31(a)(13) of the latest FERPA regulations. A separate provision, 99.31(a)(14), permits a postsecondary institution to disclose to anyone the final results of any disciplinary hearing against an alleged perpetrator of a crime of violence where that student was *found in violation* of the institution's rules or policies with respect to such crime or offense.

A school is not relieved of compliance with the reporting requirements of the campus security regulations when the school refers a matter to a disciplinary committee, rather than to the school's law enforcement unit or directly to the local authorities.

## Daily Crime Log

**Crime Log Cite**
*34 CFR 668.46(f)*

The Amendments of 1998 require schools that maintain a campus police or security department to make, keep, and maintain daily logs of any crime that occurred within the patrol jurisdiction of the campus police or the campus security department designated by the institution. The logs must be written in a manner that is easily understood. The school must record by date the crime was reported, the nature, date, time, and general location of each crime, and the disposition of the complaint, if known. The logs must be made public, except where prohibited by law or when disclosure would jeopardize the confidentiality of the victim. Schools are required to update logs with new information when available, but no later than two business days after the information is received, unless the disclosure is prohibited by law or would jeopardize the confidentiality of the victim. The school must disclose any information withheld once the adverse effect described is no longer likely to occur.

Often time passes between when a crime is committed and when it is discovered, making the date of occurrence unknown or uncertain. In addition, for statistical purposes, the FBI collects crime data based on when crimes are reported to the police. Therefore, **an institution should report crime data based on when the crime was reported to campus police or security authorities**.

The school must make the crime log for the most recent 60-day period open to public inspection during normal business hours. The school must make any portion of the log older than 60 days available within two business days of a request for public inspection.

A school may withhold information if (and as long as) the release of the information would jeopardize an ongoing criminal investigation

or the safety of an individual, cause a suspect to evade detection, or result in the destruction of evidence. A school may withhold only the information that would cause the aforementioned adverse effects.

## The Annual Security Report

**Security Report Cite**
*34 CFR 668.46(b)*

The annual security report, due October 1, must contain the required crime statistics for the three calendar years preceding the year in which the report is disclosed. The crime report due October 1, 2001 must include statistics for the 1998, 1999, and 2000 calendar years. **Schools must retain records used to create their campus**

**security reports for three years after the due date of the report.** Schools must maintain the information used in compiling the 2001 report and make the report available until September 30, 2004.

## *Policies and Procedures for Reporting Crimes*

The annual security report provides information regarding campus security policies and campus crime statistics. With limited exceptions, the campus security requirements do not prescribe policies and procedures for schools to follow. Rather, schools are required to make disclosures concerning the policies and procedures implemented by the school.

All schools must compile the required crime statistics in accordance with the definitions used in the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) system, Hate Crime Data Collection Guidelines and the Training Guide for Hate Crime Collection. For further guidance concerning the application of definitions and classification of crimes a school must use either the *UCR Reporting Handbook* or the *UCR Reporting Handbook: NIBRS Edition.*

Except when determining how to report crimes committed in a multiple offence situation, a school must use the hierarchy rule found in the *UCR Reporting Handbook.* Copies of these publications are available from: FBI Communications Unit, 1000 Custer Hollow Road, Clarksburg, WV 26306 (telephone: 304-625-2823). Schools are encouraged but not required to participate in the FBI's UCR program.

The statistics required in the annual security report may not include the identification of the victim or the person accused of committing the crime.

A school must make a reasonable, good faith effort to obtain the required statistics and may rely on the information supplied by a local or state police agency. A school making a good faith effort will not be held responsible for the failure of local and state police agencies to supply the required statistics.

At a minimum, the annual security report must include the following:

1. the required institutional crime statistics, including:
    a. criminal homicide, including (1) murder and nonnegligent manslaughter, and (2) negligent manslaughter
    b. sex offenses, including (1) forcible sex offenses, and (2) nonforcible sex offenses
    c. robbery
    d. aggravated assault

e. burglary

f. motor vehicle theft

g. arson

h. separately by category of prejudice, each crime listed above and any other crime involving bodily injury reported to local police agencies or to a campus security authority that shows evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity or disability

i. arrests for violations of drug law violations, and illegal weapons possession; and

j persons not arrested but referred for campus disciplinary action for liquor, drug, and weapons law violations.

The Amendments require schools to report crime statistics by means of separate categories:

- on campuses;

  **Note:** Crimes that occur in dormitories or other residential facilities for students are reported as a subset of crimes on campus.

- in or on a non-campus building or property; and

- on public property.

2. a statement of current campus policies regarding procedures for reporting crimes and other emergencies occurring on campus and the policies for the school's response to these reports, including:

a. policies for making timely reports of the above described crimes to members of the campus community;

b. policies for preparing the annual disclosure of crime statistics; and

c. a list of the titles of each person or organization to whom the criminal offenses described above should be reported for the purpose of making timely warning reports and the annual statistical disclosure.

This statement must also describe any institutional policies or procedures that allow voluntary or confidential reports made by victims or witnesses to be included in the annual disclosure of crime statistics.

3. a statement of the school's policies concerning the security of, and access to, all campus facilities, including residences, and security considerations used in the maintenance of campus facilities,

4. a statement of the school's policies concerning campus law enforcement, including

    a. the enforcement authority of campus security personnel, their working relationship with state and local police and other law enforcement agencies, and whether the security personnel have the authority to arrest individuals; and

    b. policies that encourage accurate and prompt reporting of crimes to campus police and the appropriate police agencies; and

    c. procedures that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform their clients of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

5. descriptions of the type and frequency of programs that

    a. inform students and employees about campus security procedures and practices; and

    b. encourage students and employees to be responsible for their own security and the security of others.

6. a description of institutional crime prevention programs;

7. a statement of the policies concerning the monitoring and recording (through local police agencies) of student criminal activity at off-campus locations of student organizations recognized by the school, including student organizations with off-campus housing facilities (see the definition of a *campus* on page 2-201);

8. the policies concerning the possession, use, and sale of alcoholic beverages, including the enforcement of state underage drinking laws;

9. a statement of institutional policies concerning the possession, use, and sale of illegal drugs including the enforcement of state and federal drug laws;

10. a description of the drug and alcohol-abuse education programs available to students and employees, as required under section 120(a) through (d) of the Higher Education Act;

11. a statement of the sexual assault prevention programs available and the procedures to be followed when a sex offense occurs, including:

    a. a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses;

    b. procedures a student should follow if a sex offense occurs (who to contact and how to contact them, the importance of preserving evidence for proof of a criminal offense);

    c. options for the notification of local law enforcement officials (including on-campus and local police) and a statement that school personnel will assist the student in notifying these authorities, if requested by the student;

    d. availability of on- and off-campus counseling, mental health, or other student services for victims of sex offenses;

    e. notice to students that the school will change a victim's academic and living situations after the alleged sex offense and of the options for changes, if changes are requested by the victim and are reasonably available,

    f. procedures for campus disciplinary actions in cases of an alleged sex offense, including a clear statement that both the accuser and the accused

        - are entitled to the same opportunities to have others present during a disciplinary proceeding, and

        - will be informed of the school's final determination any school disciplinary proceeding with respect to the alleged sex offense and any sanction that is imposed against the accused,

    g. sanctions the school may impose following a final determination of a school disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses.

The final regulations published on November 1, 1999 made the following changes to a school's annual security report.

1. The list of crimes that an institution must disclose in its annual security report has changed as follows:

    a. An additional category of manslaughter, broken into two sub categories, nonnegligent and negligent manslaughter, is added to the category of murder. *Murder and nonnegligent manslaughter* is the willful (nonnegligent) killing of one human being by another. *Manslaughter by negligence* is the killing of another person through gross negligence. The new regulations incorporate manslaughter into the regulations by adding nonnegligent manslaughter to the current murder category and adding a new negligent manslaughter category. Collectively the two categories are referred to as *criminal homicide* consistent with the FBI's definitions.

b. The category of arson is added to the crime disclosure list. Arson is any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

2. The period for which liquor-law, drug-law and weapons possession violations must be reported has changed from the most recent year to the most recent three years. In addition, the school must disclose not only the number of arrests for these crimes but also the unduplicated number of persons who were referred for campus disciplinary action for these activities.

   **Institutions should not include students referred for campus disciplinary action for alcohol, drug, and weapons possession unless those violations were also violations of law.** For example, if a student of legal drinking age in the state where the institution is located violates the institution's *dry campus* policy and is referred for disciplinary action, that statistic should not be included in the institution's crime statistics. If a student was both arrested and referred for campus disciplinary action for the same violation, the new regulations require that the institution report the statistic only under arrests.

3. The hate crime disclosure requirement now requires a school to disclose, by category of prejudice, the number of hate crimes among all the crimes it is required to report and any other crimes involving bodily injury reported to a local police agency or a campus security authority. In addition, schools must use the UCR standard of evidence of prejudice to assist in determining if a hate crime occurred.

4. A school must provide a geographic breakdown for the required crime statistics according to the following categories:

   a on campus,

   b non-campus building or property,

   c public property, and

   d dormitories or other residential facilities for students on campus. (Dormitories and other residential facilities are a subset of the campus category.)

5. Crimes must be reported for the calendar year in which the crime was reported to a campus security authority rather than the calendar year in which the crime occurred.

6. Schools are specifically prohibited from identifying the victim or the alleged perpetrator of the crime in the school's disclosure of its crime statistics.

7. A school must disclose the previous three calendar years' crime statistics for the required statistical disclosures.

8. Schools were required to begin collecting statistics using the new categories effective calendar year 1999. A school's 2001 report — which will include statistics for calendar years 1998, 1999, and 2000 — must include statistics for calendar years 1999 and 2000 using the new categories. Schools may continue to report statistics for calendar years 1998 using the previously applicable categories, except that a school must use the new categories for those years if the data are available.

9. A school is not required to report statistics related to crimes that are reported to a pastoral counselor or a professional counselor, as defined in the regulations, who is functioning within the scope of his or her license or certification.

10. A school may rely on statistical information supplied by local and state police agencies, as long as the school makes a reasonable, good-faith effort to obtain these statistics.

11. The school must disclose its annual security report by October 1 of each year.

12. The definition of a campus security authority was broadened.

13. A school with a campus police or campus security department of any kind must maintain a daily, written crime log of any crime reported to that department that occurred on campus, in or on a non-campus building or property, or on public property.

14. Each school must annually submit the statistical section of its security report to the Department of Education. There is no requirement that a school submit statistical information in the crime log to the Department. The school must maintain campus security records to document the information included in its annual security report.

## *Complaints against schools*

When a complaint is filed against a school alleging noncompliance with the campus security regulations, the Department will assess the complaint and determine the appropriate response.

Technical assistance to schools in administering the campus security regulations is available from the Department's Customer Support Branch at 1-800-433-7327.

# INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

| Who Receives the Information | What They Receive | How It Must Be Provided | When It Must Be Provided |
|---|---|---|---|
| Currently enrolled students and current employees | The institution's annual campus security report in its entirety (pursuant to 668.46) | Through publications, mailings or electronic media sent directly to individuals. If a school chooses to post its annual security report to a Web site it must send each individual a notice through U.S. mail, campus mail, or directly to an E-mail address that<br>1. identifies the information required to be disclosed;<br>2. provides the exact electronic Web site address;<br>3. states that, upon request, the individual is entitled to a paper copy; &<br>4. informs the individual how to request a paper copy. | The institution must prepare and make available its security report annually by October 1. |
| Currently enrolled students | Notice about the availability of the following<br>1. information on financial assistance available to students enrolled in the institution (pursuant to 668.42);<br>2. information on the institution (pursuant to 668.43);<br>3. the institution's completion or graduation rate, and, if applicable, its transfer-out rate (pursuant to 668.45);<br>4. information about students' rights under FERPA (pursuant to 99.7); and<br>5. information about athletic program participation rates and financial support (EADA) (pursuant to 668.47).<br>The notices must be sufficiently detailed to allow students to understand the nature of the disclosures and make an informed decision whether to request the full reports. | A school must provide **direct individual notice** to each person. A school may provide the required notice through direct mailing to each individual through the U.S. Postal Service, campus mail, or electronically directly to an E-mail address.<br>The individual notice provided to students must<br>1. identify the information required to be disclosed;<br>2. provide the exact electronic Web site address where the information can be found;<br>3. state that upon request the student is entitled to a paper copy; and<br>4. inform the student how to request a paper copy. | Annually, a school must provide notice to each enrolled student. Immediately, upon request, the institution must provide the full reports.<br>The institution must prepare its completion or graduation rate, and, if applicable, its transfer-out rate report by July 1, immediately following the point in time at which the 150% point for the cohort has elapsed.<br>Institutions should prepare and make available information about athletic program participation rates and financial support (EADA) by October 15.<br>Information on the institution and its financial assistance programs must be current. |
| The general public | An institution that<br>1. participates in any Title IV, HEA program and<br>2. has an intercollegiate athletic program<br>must provide a report on athletic program participation rates and financial support (EADA) (pursuant to 668.47). | Through appropriate publications, mailings or electronic media. | Annually for the preceding year the institution must prepare the report and make it available by October 15. |

# INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS (CONTD)

| Who Receives the Information | What They Receive | How It Must Be Provided | When It Must Be Provided |
|---|---|---|---|
| Prospective students | 1. Information on financial assistance available to students enrolled in the institution (pursuant to 668.42).<br>2. Information on the institution (pursuant to 668.43).<br>3. Information about students' rights under FERPA.<br>4. Notice about the availability of the institution's annual campus security report (pursuant to 668.46). The notice must include:<br>a. a list of the information in the report;<br>b. brief descriptions of the required disclosures that are sufficient to allow students to understand the nature of the disclosures and make an informed decision whether to request the full report; (Please see the NPRM of 8/10/99 page 43583 for an example) and<br>c. an opportunity to request a copy.<br>5. The institution's completion or graduation rate, and, if applicable, its transfer-out rate (pursuant to 668.45).<br>6. Information about athletic program participation rates and financial support (pursuant to 668.47). | Directly to prospective students through appropriate publications, mailings, or electronic media an institution must provide individual notice of the availability of items 1 through 6.<br>Upon request, institutions must provide their complete report on completion, graduation and, if applicable, transfer-out rates.<br>Upon request, an institution must provide a copy of its full annual security report to a prospective student.<br>If provided electronically, notices and reports must be sent directly to an E-mail address. | **Prior** to a prospective student's enrolling or entering into any financial obligation with an institution, the institution must provide its report on completion, graduation and transfer rates.<br>Notice about the availability of the other reports should be included in the materials an institution provides to prospective students.<br>Immediately, upon request, the institution must provide its security report on a direct, individual basis. |
| Prospective student-athletes and their<br>1. parents,<br>2. high school coaches, &<br>3. guidance counselors | An institution that is attended by students receiving athletically related student aid must produce a report on the completion and graduation rates of student athletes pursuant to 668.48. | The information must be provided **directly** to the respective parties. It may be provided in writing (on paper) or through electronic mail but **not** simply by posting it to a Web site.<br>If an institution's completion and graduation rates of student athletes are provided by the NCAA to high school coaches and counselors, the institution is deemed to be in compliance with that portion of this requirement. | The institution must provided the report **at the time it makes an offer of athletically related student aid** to a prospective student.<br>Annually by July 1, institutions that are attended by students receiving athletically related student aid must produce the report and make it available. |

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## INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS (CONTD.)

| Who Receives the Information | What They Receive | How It Must Be Provided | When It Must Be Provided |
|---|---|---|---|
| Currently enrolled students and current employees | The institution's annual campus security report in its entirety (pursuant to 668.46) | Through publications, mailings or electronic media sent directly to individuals. If a school chooses to post its annual security report to a Web site it must send each individual a notice through U.S. mail, campus mail, or directly to an E-mail address that<br>1. identifies the information required to be disclosed;<br>2. provides the exact electronic website address;<br>3. states that, upon request, the individual is entitled to a paper copy; &<br>4. informs the individual how to request a paper copy. | The institution must prepare and make available its security report annually by October 1. |
| Currently enrolled students | Notice about the availability of the following –<br>1. information on financial assistance available to students enrolled in the institution (pursuant to 668.42);<br>2. information on the institution (pursuant to 668.43);<br>3. the institution's completion or graduation rate, and, if applicable, its transfer-out rate (pursuant to 668.45);<br>4. information about students' rights under FERPA (pursuant to 99.7); and<br>5. information about athletic program participation rates and financial support (EADA) (pursuant to 668.47).<br>The notices must be sufficiently detailed to allow students to understand the nature of the disclosures and make an informed decision whether to request the full reports. | A school must provide **direct individual notice** to each person. A school may provide the required notice through direct mailing to each individual through the U.S. Postal Service, campus mail, or electronically directly to an E-mail address.<br>The individual notice provided to students must<br>1. identify the information required to be disclosed;<br>2. provide the exact electronic Web site address where the information can be found;<br>3. state that upon request the student is entitled to a paper copy; and<br>4. inform the student how to request a paper copy. | Annually, a school must provide notice to each enrolled student. Immediately, upon request, the institution must provide the full reports.<br>The institution must prepare its completion or graduation rate, and, if applicable, its transfer-out rate report by July 1, immediately following the point in time at which the 150% point for the cohort has elapsed.<br>Institutions should prepare and make available information about athletic program participation rates and financial support (EADA) by October 15.<br>Information on the institution and its financial assistance programs must be current. |
| The general public | An institution that<br>▪ participates in any Title IV, HEA program and<br>▪ has an intercollegiate athletic program<br>must provide a report on athletic program participation rates and financial support (EADA) (pursuant to 668.47). | Through appropriate publications, mailings or electronic media. | Annually for the preceding year the institution must prepare the report and make it available by October 15. |

# Recordkeeping and Disclosure

## CHAPTER 8

*In this chapter, we discuss the requirements for maintaining and disclosing records for the SFA programs.*

The General Provisions regulations require schools to maintain records related to their participation in the SFA programs. These records must be made available by schools to representatives of the Department and other specified individuals or organizations in the course of audits, program reviews, investigations, or other authorized reviews.

**Recordkeeping Cite**
*34 CFR 668.24*

In addition to the general institutional recordkeeping requirements discussed here, a school must also comply with all program-specific recordkeeping requirements contained in the individual SFA program regulations.

This chapter also describes the rules governing disclosure, including a discussion of the Family Educational Rights and Privacy Act (FERPA). FERPA restricts the disclosure of student records to other parties and requires the school to give a student the opportunity to review his or her records.

## REQUIRED RECORDS

A school must keep comprehensive, accurate program and fiscal records related to its use of SFA program funds. The importance of maintaining complete, accurate records cannot be overemphasized. Program and fiscal records must demonstrate the school is capable of meeting the administrative and fiscal requirements for participating in the SFA programs. In addition, records must demonstrate proper administration of SFA program funds and must show a clear *audit trail* for SFA program expenditures. For example, **records for each SFA recipient must clearly show that the student was eligible for the funds received, and that the funds were disbursed in accordance with program regulations.**

### *Program records*

A school must establish and maintain on a current basis any application the school submitted for SFA program funds. A school must also maintain on a current basis program records that document

- the school's eligibility to participate in the SFA programs,
- the SFA eligibility of the school's programs of education,
- the school's administration of the SFA programs,
- the school's financial responsibility,
- information included in any application for SFA program funds, and

the school's disbursement and delivery of SFA program funds.

## Program Records a School Must Maintain

The program records that a school must maintain include, but are not limited to

- ✓ Program Participation Agreement
- ✓ Accrediting and licensing agency reviews, approvals, and reports
- ✓ State agency reports
- ✓ Audit and program review reports
- ✓ Self-evaluation reports
- ✓ Other records, as specified in regulation, that pertain to factors of financial responsibility and standards of administrative capability

## FISCAL RECORDS

A school must keep fiscal records to demonstrate its proper use of SFA funds. A school's fiscal records must provide a clear audit trail that shows that funds were received, managed, disbursed, and returned in accordance with federal requirements. Schools are required to account for the receipt and expenditure of all SFA program funds in accordance with generally acceptable accounting principles.

A school must establish and maintain on a current basis

- financial records that reflect each SFA program transaction, and
- general ledger control accounts and related subsidiary accounts that identify each SFA program transaction and separate those transactions from all other institutional financial activity.

## Fiscal Records a School Must Maintain

The fiscal records that a school must maintain include, but are not limited to

- ✔ Records of all SFA Program transactions
- ✔ Bank statements for all accounts containing SFA funds
- ✔ Records of student accounts, including each student's institutional charges, cash payments, SFA payments, cash disbursements, refunds, and repayments required for each enrollment period
- ✔ General ledger (control accounts) and related subsidiary ledgers that identify each SFA Program transaction (SFA transactions must be separate from school's other financial transactions)
- ✔ Federal Work-Study payroll records
- ✔ Records that support data appearing on required reports, such as
  - Pell Grant Statements of Accounts
  - ED Payment Mangement System cash requests and quarterly or monthly reports
  - SFA Program reconciliation reports
  - Audit reports and school responses
  - State grant and scholarship award rosters and reports
  - Accrediting and licensing agency reports
  - Records used to prepare the Income Grid on the FIAP

### *General records*

In addition, a school must maintain the following records that pertain to the general administration of SFA program funds.

In addition, participants in the

- Perkins Loan Program must follow procedures in Section 674.19 for documenting the repayment history for each borrower for that program (see *Volume 5 — Perkins Loans*),
- FWS Program must follow procedures established in Section 675.19 for documentation of work, earnings, and payroll transactions for that program (see *Volume 6 — Federal Work-Study Program*), and
- FFEL Program must follow procedures established in Section 682.610 for documentation of additional loan record requirements for that program (see *Volume 8 — FFEL/DL Loans*).

## General Records a School Must Maintain

A school must maintain records for each SFA recipient that include, but are not limited to

- ✔ The Student Aid Report (SAR) or Institutional Student Information Record (ISIR) used to determine a student's eligibility for SFA funds
- ✔ Application data submitted to the Department, lender, or guaranty agency by the school on behalf of the student or parent
- ✔ Documentation of each student's or parent borrower's eligibility for SFA Program funds (e.g., records that demonstrate that the student has a high school diploma, GED, or the ability to benefit)
- ✔ Documentation of all professional judgement decisions
- ✔ Financial aid history information for transfer students
- ✔ Cost of attendance information
- ✔ Documentation of a student's satisfactory academic progress
- ✔ Documentation of a student's program of study and courses in which enrolled
- ✔ Data used to establish student's admission, enrollment status, and period of enrollment
- ✔ Required student certification statements and supporting documentation
- ✔ Documents used to verify applicant data
- ✔ Documentation relating to each student's or parent borrower's receipt of SFA Program funds, including but not limited to
  - The amount of the grant, loan, or FWS award; its payment period; its loan period, if appropriate; and the calculations used to determine the amount of grant, loan, or FWS award,
  - The date and amount of each disbursement or delivery of grant or loan funds, and the date and amount of each payment of FWS wages,
  - The amount, date, and basis of the school's calculation of any refunds/returns or overpayments due to or on behalf of the student, and
  - The payment of any refund/return or overpayment to the SFA Program fund, a lender, or the Department, as appropriate.
- ✔ Documentation of and information collected at any initial or exit loan counseling required by applicable program regulations

In addition, a school must maintain records that include, but are not limited to

- ✔ Reports and forms used by the institution in its participation in an SFA Program, and any records needed to verify data that appear in those reports and forms
- ✔ Documentation supporting the school's calculation of its completion or graduation rates, and transfer-out rates (see chapter 7)

## RECORD RETENTION PERIODS

**Records Cite**
334 CFR 668.24

***Additional Record Retention Cite***
*34 CFR 668.27*

Schools must retain all required records for a minimum of three years from the end of the award year. However, the starting point for the three-year period is not the same for all records. For example, some campus-based program records must be kept for three years from the end of the award year in which the funds were awarded and disbursed. **Schools must keep the Fiscal Operations Report (FISAP) and any records necessary to support their data for three years from the end of the award year in which the FISAP is submitted.** The most current FISAP, which will contain 1999-2000 data, must be submitted during the 2000-2001 award year, will request 2001-2002 funds, and has a submission date of October 2000. Because this FISAP will be submitted during the 2000-2001 award year, records must be kept until at least June 30, 2004, three years from the last day of the 2000-2001 award year.

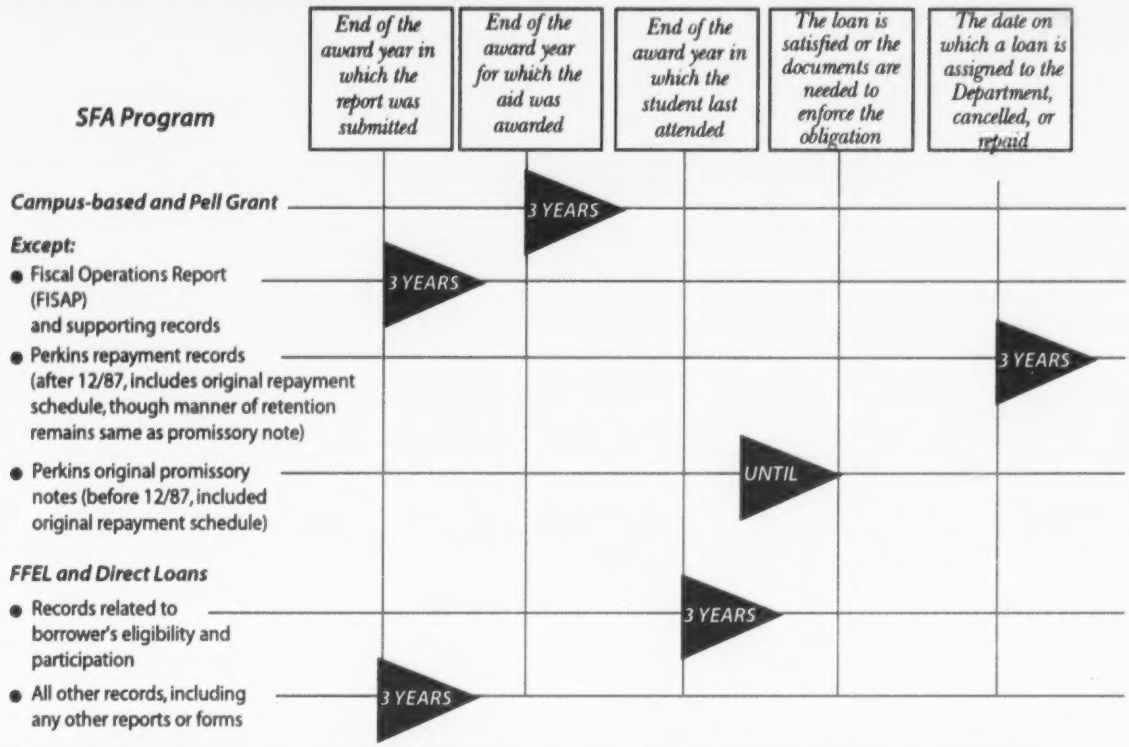
There are additional exceptions to the general record retention periods for repayment records for Perkins Loans and records related to a FFEL or Direct Loan borrower's eligibility and participation in those programs. There are also additional record retention requirements that apply to schools granted waivers of the audit submission requirements.

Different retention periods are necessary to ensure enforcement and repayment of SFA loans. Perkins Loan repayment records, including cancellation and deferment records, must be kept for three years from the date that the loan was assigned to the Department, cancelled, or repaid. Perkins original promissory notes and original repayment schedules must be kept until the loan is satisfied or needed to enforce the obligation (for more information, see *Volume 5 — Perkins Loans*). Records relating to a borrower's eligibility and participation in the FFEL and Direct Loan programs must be kept for three years from the last day of the award year in which the student last attended the school.

The chart on the next page illustrates the required minimum retention periods for records under the various SFA programs.

A school may retain records longer than the minimum period required. Moreover, a school may be required to retain records involved in any loan, claim, or expenditure questioned in any SFA program review, audit, investigation, or other review, for more than three years. (see chapter 11 for information on program reviews and audits). If the three-year retention period expires before the issue in question is resolved, the school must continue to retain all records until resolution is reached.

### Minimum Record Retention Periods



| SFA Program | *End of the award year in which the report was submitted* | *End of the award year for which the aid was awarded* | *End of the award year in which the student last attended* | *The loan is satisfied or the documents are needed to enforce the obligation* | *The date on which a loan is assigned to the Department, cancelled, or repaid* |
|---|---|---|---|---|---|
| ***Campus-based and Pell Grant*** | | 3 YEARS | | | |
| ***Except:*** | | | | | |
| ● Fiscal Operations Report (FISAP) and supporting records | 3 YEARS | | | | |
| ● Perkins repayment records (after 12/87, includes original repayment schedule, though manner of retention remains same as promissory note) | | | | | 3 YEARS |
| ● Perkins original promissory notes (before 12/87, included original repayment schedule) | | | | UNTIL | |
| ***FFEL and Direct Loans*** | | | | | |
| ● Records related to borrower's eligibility and participation | | | 3 YEARS | | |
| ● All other records, including any other reports or forms | 3 YEARS | | | | |

## RECORD MAINTENANCE

### *Acceptable formats*

A school must maintain all required records in a systematically organized manner. Unless a specific format is required, a school may keep required records in

- hard copy
- microform
- computer file
- optical disk
- CD-ROM
- other media formats

Regardless of the format used to keep a record, all record information (except for the Institutional Student Information Record [ISIR]) must be retrievable in a coherent hard copy format (for example, an easily understandable printout of a computer file) or in a media format acceptable to the Department. The requirement providing for other media formats acceptable to the Department allows for the use of new technology as it is developed. The Department will notify schools of acceptable media formats; schools should not apply for approval of a media format.

**Any document that contains a signature, seal, certification, or any other image or mark required to validate the authenticity of its information must be maintained in its original hard copy or in an**

**imaged media format.** This includes tax returns, verification statements, Student Aid Reports (SARs) used to determine eligibility, and any other document when a signature seal, etc., contained on it is necessary for the document to be used for the purposes for which it is being retained.

A school may maintain a record in an imaged media format only if the format is capable of reproducing an accurate, legible, and complete copy of the original document. When printed, the copy must be approximately the same size as the original document.

## Safeguarding electronic records

New

The Department is making a continuing effort to provide for the increasing use of technology in the administration of the SFA programs. As new regulations are written they will contain instructions for schools that wish to move toward maintaining SFA records in an electronic format. For example, new FWS regulations remove the requirement that a FWS student's supervisor sign his or her name on a paper certification. Now, institutions may use an electronic certification or a certification through other appropriate means.

This change does not remove the certification requirement that helps ensure that the supervisor is reviewing the time record prior to paying the student. Rather the change provides flexibility to institutions by allowing the use of an electronic certification or certification through other appropriate means.

The FWS regulations require a school that chooses to use electronic certification adopt reasonable safeguards against possible fraud and abuse. As institutions begin developing plans for using electronic record keeping in administering other SFA programs, they should keep in mind the safeguards required for electronic certification in the FWS program. Those safeguards include:

- password protection,
- password changes at set intervals,
- access revocation for unsuccessful log-ins,
- user identification and entry point tracking,
- random audit surveys with supervisors, and
- security tests of the code access.

## *Special requirements for SARs and ISIRs*

Special maintenance and availability requirements apply for SARs and ISIRs used to determine eligibility. It is essential that these basic eligibility records be available in a consistent, comprehensive, and verifiable format for program review and audit purposes.

Because the SAR is a hard copy document, it must be maintained and available in its original hard copy format or in an imaged media format. The ISIR, an electronic record, must be maintained and available in its original format, i.e., as it was supplied by the Department to the school on a magnetic tape or cartridge, or as it was archived using EDExpress software supplied to the school. A school that uses EDExpress has the ability to preserve the ISIR data that it has maintained during the applicable award year by archiving the data to a disk or other computer format. A school that receives ISIRs on magnetic tapes or cartridges may make a copy of the file received from the Department.

A school is not required to maintain all required records in its financial aid office. For example, it may be more appropriate for a school to maintain some records in the business office, the admissions office, or the office of the registrar. The responsible administrator in the office maintaining the records should be aware of all applicable record retention requirements.

If a school closes, stops providing educational programs, is terminated or suspended from the SFA programs, or undergoes a change in ownership that results in a change of control, it must provide for the retention of required records. It must also provide for access to those records for inspection and copying by the Department. For a school that participates in the FFEL Program, the school must also provide access for the appropriate guaranty agency.

## EXAMINATION OF RECORDS

### *Location*

A school must make its records available to the Department at an institutional location designated by the Department. These records must be readily available for review, including any records of transactions between a school and the financial institution where the school deposits any SFA funds.

### *Cooperation with agency representatives*

A school that participates in any SFA program, and the school's third party servicers, if any, must cooperate with the agencies and individuals involved in conducting any audit, program review, investigation, or other review authorized by law. This cooperation must be extended to the following individuals and their authorized representatives: an independent auditor, the Secretary of the Department, the Department's Inspector General, and the Comptroller General of the United States. A school must also provide this cooperation to any guaranty agency in whose program the school participates, and to the school's accrediting agency.

### *Timely access*

A school must cooperate by providing timely access to requested records, pertinent books, documents, papers, or computer programs for examination and copying by any of the agents listed above. The records to which timely access must be provided include, but are not limited to, computerized records and records reflecting transactions with any financial institution with which the school or servicer deposits or has deposited any SFA program funds.

### *Reasonable access to personnel*

A school must also provide reasonable access to all personnel associated with the school's or servicer's administration of the SFA programs so that any of the agents listed above may obtain relevant information.

A school or servicer has not provided reasonable access to personnel if the school or servicer

- refuses to allow those personnel to supply all relevant information,
- permits interviews with those personnel only if the school's or servicer's management is present, or
- permits interviews with those personnel only if the interviews are tape recorded by the school or servicer.

### *SFA recipient information*

If requested by the Department, a school or servicer must provide promptly any information the school or servicer has respecting the last known address, full name, telephone number, enrollment information, employer, and employer address of a recipient of SFA program funds who attends or attended the school. A school must also provide this information, upon request, to a lender or guaranty agency in the case of a borrower under the FFEL Program.

## DISCLOSING STUDENT INFORMATION

### *FERPA*

To protect the privacy of students and families, federal law sets certain conditions on the disclosure of personal information from records kept by schools that participate in the SFA programs. The relevant law is the Family Educational Rights and Privacy Act of 1974. Do not confuse FERPA with the Privacy Act of 1974 that governs the records kept by government agencies, including the application records in the federal processing system.

FERPA restrictions on disclosure of records that are created and maintained by campus law enforcement units (for law enforcement purposes) are discussed in chapter 7.

Department regulations set limits on the disclosure of personally identifiable information from school records, define the responsibilities of the school, and define the rights of the student to review the records and request a change to the records. A school must give the student the opportunity to inspect and review his or her educational records, but does not have to provide copies of the records unless the requirement that the student come to the school to inspect and review the records would effectively deny access to the student. While the school may not charge a fee for retrieving the records, it may charge a reasonable fee for providing copies of the records, provided that the fee would not prevent access to the records.

The graphic below notes several important elements of the school's responsibilities and the rights of the student or parent. The regulations apply to all education records the school keeps, including admissions records (only if the student was admitted) and academic records as well as any financial aid records pertaining to the student. Therefore, the financial aid office is not usually the office that develops the school's FERPA policy or the notification to students and parents, although it may have some input.

## A School is Required to —

- ***Develop a written policy*** listing the types and locations of education records maintained by the school, and stating the procedures for parents and students to review the records.
- ***Notify parents and students*** of their rights with respect to educational records.
- ***Document the student's file*** each time personally identifiable information is disclosed to persons other than the student.

## A Student has the Right to —

- ***Inspect and review*** education records pertaining to the student.
- ***Request an amendment*** to the student's records.
- ***Request a hearing*** (if the request for an amendment is denied) to challenge the contents of the education records, on the grounds that the records are inaccurate, misleading, or violate the rights of the student.

The term *educational record* does **not** include records that are kept in the sole possession of the maker of the record (often called sole possession records). Sole possession records are

1. used as a memory or reference tool,
2. not accessible or revealed to any other person except a temporary substitute for the maker of the record, and
3. typically maintained by the school official unbeknownst to other individuals.

Records that contain information taken directly from a student or that are used to make decisions about the student are not sole possession records.

The FERPA regulations also establish rules governing the disclosure of student information to parties other than the student. The regulation lists 13 conditions under which *personally identifiable information* from a student's education record may be disclosed without the student's prior written consent. Several of these conditions are of particular interest to the financial aid office:

- Disclosure may be made to authorized representatives of the U.S. Department of Education, the Office of Inspector General, or state and local education authorities. These officials may have access to education records as a part of an audit or program review, or to ensure compliance with SFA program requirements.

  Representatives of the Department include research firms that are under contract with the Department to conduct studies of financial aid procedures using student information provided by the schools selected for the study. The term also includes the SFAP Public Inquiry Contractor (PIC).

- Disclosure may be made if it is in connection with financial aid that the student has received or applied for. For instance, the school may receive a request from the Immigration and Naturalization Service (INS) or the Federal Bureau of Investigation (FBI) for access to a student's records. Such a request may only be granted if the student information is needed to determine the amount of the aid, the conditions for the aid, the student's eligibility for the aid, or to enforce the terms or conditions of the aid.

- Disclosure may be made to either parent of a dependent student (regardless of which parent claims the student as a dependent) if the student is a dependent as defined by the Internal Revenue Service (IRS). Note that the IRS definition of a dependent is quite different from that of a dependent student for SFA purposes. For IRS purposes, a student is a dependent of the parent(s) if the student receives more than half of his or her support from the parent(s).

- Disclosure may be made to organizations that are conducting studies concerning the administration of student aid programs on behalf of educational agencies or institutions.

Clarification

There are two different FERPA provisions concerning the release of records relating to a *crime of violence.* One concerns the release to the *victim* of any *outcome* involving an *alleged* crime of violence. This is found in section 99.31(a)(13) of the latest FERPA regulations. A separate provision, 99.31(a)(14), permits a postsecondary institution to disclose to anyone the final results of any disciplinary hearing against an alleged perpetrator of a crime of violence where that student was *found in violation* of the institution's rules or policies with respect to such crime or offense.

## Disclosure requests for information

Schools are required to keep a record of each request for access and each disclosure of personally identifiable student information. The record must identify the parties who requested the information and their legitimate interest in the information. This record must be maintained in the student's file as long as the educational records themselves are kept.

## Sample disclosure statement

If student records are requested by Department reviewers in the course of a program review, for instance, the school must document in each student's file that the student's records were disclosed to representatives of the Department. The easiest way for the school to do this is to photocopy a statement to this effect and include it in each student's file. A statement such as the following would be appropriate for a review of the SFA programs conducted by a Department regional office: *These financial aid records were disclosed to representatives of the U.S. Department of Education, Region __, on (Month/Day/Year) to determine compliance with financial aid requirements, under 34 CFR Part 99.31(a)(4).*

## Redisclosure to other authorized parties

When student information has been disclosed to one of the parties listed above, that party may redisclose that information to additional parties who are authorized to receive the information without prior written consent, provided that such redisclosure is included in the statement in the student's file. For instance, if a program review finds evidence that a student may have fraudulently obtained aid, this information may be redisclosed to the Department's Office of Inspector General (OIG) by the regional office. (Thus the OIG would not have to make a separate request to the school for the same information.) When redisclosure is anticipated, the additional parties to whom the information will be disclosed must be included in the record of the original disclosure. For instance, to continue the example for an SFA program review, the following statement might be added: *Case Management and Oversight may make further disclosures of this information to the Department's Office of Inspector General, and to the U.S. Department of Justice, under 34 CFR 99.33(b).* Schools should check with the program review staff to find out if any redisclosure is anticipated.

As mentioned earlier, the financial aid office is usually not responsible for developing the school's FERPA policy. However, anyone involved in developing a school's policy who would like a copy of the Department's model policy for postsecondary schools, may write to the following address:

Family Policy and Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4605

# Agreements Between Schools

## CHAPTER 9

*Two or more institutions may enter into a consortium or contractual agreement so that a student can continue to receive SFA funds while studying at a school or organization other than his or her "home" institution. (The home school is the one that will grant the student's degree or certificate.) This chapter discusses the specific requirements for such agreements.*

Under a consortium or contractual agreement (including those for study abroad programs), the home school must give credit for courses taken at the other schools on the same basis (in terms of instructional time) as if it provided the training itself. The underlying assumption of such an agreement is that the home school has found the other school's or organization's academic standards to be equivalent to its own, and a completely acceptable substitute for its own instruction.

A home school may decline to give credit for courses in which a student earns a grade of "D" at a host school even though the home school has a policy of accepting grades of "D" or above that students earn in residence at the home school. In addition, even though grades received through consortium or contractual agreements do not have to be included in the calculation of the student's grade point average (GPA), they must be included when calculating a students satisfactory academic progress (SAP).

## CONSORTIUM AGREEMENT

**A consortium agreement can only exist between eligible schools. It can apply to all SFA programs.** Under such a written agreement, students may take courses at a school other than the *home* institution (the school where the student expects to receive a degree or certificate) and have those courses count toward the degree or certificate at the home school.

**Consortium Agreement Cite**
*34 CFR 668.5*
*(previously 600.9 and 690.9)*

### *Elements of a consortium agreement*

A consortium agreement can be a blanket agreement between two or more eligible schools, or it can be written for a specific student. Such an agreement is often used when a student takes related courses at neighboring schools or when a student is enrolled in an exchange program with another eligible school for a term or more. The written agreement ensures that the student will receive payment from only one school in a given payment period.

In a consortium agrement there is no limit on the portion of the eligible program that may be provided by eligible schools other than the home school. Agreement contents can vary widely and will depend upon the interests of the schools involved and the accrediting or state agency standards. The Department does not dictate the format of the agreement (which can be executed by several different offices) or where the agreement is kept. However, the following information should be included in all agreements:

- the school that will grant the degree or certificate;
- the student's tuition, fees, and room and board costs at each school;
- the student's enrollment status at each school;
- the school that will be responsible for disbursing aid and monitoring student eligibility; and
- the procedures for calculating awards, disbursing aid, monitoring satisfactory progress and other student eligibility requirements, keeping records, and distributing SFA refunds.

Usually, the home institution is responsible for disbursing funds, but if the student is enrolled for a full term or academic year at the host institution, it may be easier for the host institution to monitor the student's eligibility and make payments.

**Arrangements Between Institutions Cite**
*34 CFR 668.5*

New

When there is a written arrangement between eligible institutions, any of the institutions participating in the written arrangement may make Title IV, HEA program calculations and disbursements without that institution being considered a third-party servicer. This is true even if the student is not taking courses at the institution that is calculating and disbursing the aid.

The school that disburses an SFA award is responsible for maintaining information on the student's eligibility, how the award was calculated, what money has been disbursed, and any other documentation associated with the award (even if some of that documentation comes from other schools). Moreover, the school paying the student must return SFA funds if required (for example, in refund/return or overpayment situations). For details on how agreements affect Federal Pell Grant calculations, see Volume *3 — Pell Grant Program.*

## *Effective date of the agreement*

The agreement becomes effective for the payment period in which it is signed; however, it can be retroactive to a previous payment period if the payment period is in the same award year. Thus, if an agreement is signed in the middle of the spring semester, a student can receive a Title IV grant for the entire award year (including the preceding fall semester). Likewise, the loan period for a Title IV education loan would include that part of the award year that preceded the date of the agreement.

If not written for an individual student, agreements can stay in effect indefinitely.

## CONTRACTUAL AGREEMENT

An *eligible* institution may enter into a *written contractual agreement* with an *ineligible school or organization* under which the ineligible school or organization provides part of the educational program of students enrolled at the eligible school.

Eligible institutions are prohibited from entering into contracts with ineligible schools or organizations if the ineligible school or organization:

- has had its eligibility to participate in the SFA programs terminated by the Department; or
- has voluntarily withdrawn from participation in the SFA programs under a termination, show-cause, suspension, or similar type proceeding initiated by the institution's state licensing agency, accrediting agency, guarantor, or by the Department.

**Under a contractual agreement, the eligible school is always the home school.** The home school performs all the aid processing and delivery functions for its students attending the ineligible school or organization. The home school is responsible for maintaining all records necessary to document student eligibility and receipt of aid (see chapter 8).

**For schools in a contractual agreement, there is a limit on the portion of the program that can be offered by the ineligible school.** If both the home and ineligible schools are owned or controlled by the same individual, partnership, or corporation, no more than 25% of the educational program can be provided by the ineligible school. If the two schools are separately owned or controlled, the ineligible school can provide up to 50% of the educational program. However, in the case of separately owned schools, if the contracted portion is more than 25% of the program, the home school's accrediting agency or state agency (in the case of a public postsecondary vocational institution) must determine and confirm in writing that the agreement meets its standards for contracting out education services.

## STUDY ABROAD OR DOMESTIC EXCHANGE PROGRAMS

Students usually participate in study abroad or domestic exchange programs in one of two ways:

- by paying tuition and fees directly to the school the student is temporarily attending (for example, through an out-of-state tuition waiver system), or
- by paying tuition and fees at the home school, while taking courses at another school.

**Important**: Some eligible students have had problems receiving SFA program funds for study abroad or domestic exchange programs, because neither the student's home school nor the school the student is temporarily attending considered the student enrolled in an eligible program of study. These circumstances have caused otherwise eligible students to be denied financial assistance at both schools.

**The law states that a student participating in a study abroad program approved by he home school is eligible for SFA funds, regardless of whether the program is required for the student's regular, eligible program of study, as long as the student is an eligible regular student enrolled in an eligible program at the home school.** The Program Participation Agreement (PPA) requires participating institutions to establish procedures that ensure that it's students participating in study-abroad programs receive the SFA funds to which they are entitled.

A study abroad program must be part of a written contractual agreement between two or more schools, and the program must be accepted for credit by the home institution. **The program does not have to be required by the eligible program in which the student is enrolled at the home institution for the student to receive funds.**

**Arrangements With a Study-Abroad Organization Cite**
*34 CFR 668.5*

**New**

New regulations, effective November 1, 2000 permit an eligible institution to have a written arrangement with a study-abroad organization that represents one or more foreign institutions instead of separate agreements directly with each foreign institution that its students are attending.

For purposes of administering the Title IV, HEA programs, and the written agreement between the eligible institution and the study abroad organization must adequately describe the duties and responsibilities of each entity and meet the requirements of the regulations.

When there is a written arrangement between eligible institutions, any of the institutions participating in the written arrangement may make Title IV, HEA program calculations and disbursements without that institution being considered a third-party servicer. This is true even if the student is not taking courses at the institution that is calculating and disbursing the aid.

# Applying for and Maintaining Participation in the SFA programs

## CHAPTER 10

*In this chapter, we will discuss how and when a school applies for approval to participate in any Student Financial Assistance (SFA) program. We also discuss changes that can affect a school's participation and how and when to report these changes.*

## APPLYING TO PARTICIPATE

To participate in any of the SFA programs—the Pell Grant Program, the Federal Direct Loan Program, the Federal Family Education Loan (FFEL) Program, and the campus-based programs (Federal Supplemental Educational Opportunity Grant [FSEOG], Federal Work-Study [FWS], and Federal Perkins Loan)—a school must be certified by the Department.

**Application Form**
*Sec. 498(b)*

To apply for institutional participation, a school must submit an *Application for Approval to Participate in Federal Student Financial Aid Programs* (Application) to the Department. In evaluating the school and deciding whether to approve or deny the request to participate in any SFA program, the Department examines the Application and accompanying submissions. In addition, for schools that are participating or have participated in the SFA programs, the Department will examine a school's audits and program reviews. The Department also will check to see if a school has submitted all the required financial statements and compliance audits. The Department may request additional materials (such as school catalogs or copies of contracts with third-party servicers) and ask additional questions. Note that, effective October 1, 1998, the Higher Education Amendments of 1998, Public Law 105-244 (Amendments of 1998) allow a school to provide a copy of its contract with a third-party servicer upon request, rather than requiring that it be submitted as part of the certification process.

The Department uses the information provided by the school to examine three major factors about the school: institutional eligibility, administrative capability, and financial responsibility. These subjects are discussed in detail in chapters 1-4. The Amendments of 1998 clarify that the Application is to contain information that allows the Department to evaluate a school's financial responsibility and administrative capability. In addition, the Amendments require that the Application provide, at the option of a school, for participation in one or more of the FFEL and Direct Loan programs.

This chapter covers:

- when a school should submit an Application,
- the steps a school must follow when submitting an Application
- how to submit changes to an Application
- the Quality Assurance Program
- the Experimental Sites Initiative

## *Electronic application*

Applications for initial certification, recertification, reinstatement, or reporting changes to previous applications must be submitted to the Department electronically through the Internet (see chapter 3). A signature page is required and must be mailed separately along with all required supporting documentation. The Department has made the Application available on the Department's Web site. The address is

http://www.eligcert.ed.gov

## *Electronic application process*

1. A school seeking initial certification should enter the web site above, and click on the hot link marked, *initial application*. The hot link provides specific requirements that the school needs to review and follow to gain eligibility and certification.

2. If the school believes it meets all the requirements and wants to apply for approval, it must provide answers to certain basic questions on the Electronic Application. These questions are taken from the Application and are numbered to correspond.

3. Once the school answers these questions, the school prints and faxes them to the Case Management and Oversight (CMO) Team responsible for the school's home state. A current list of CMO phone numbers can be found on the Electronic Application (eapp) web site above and at the end of chapter 11.

4. The information provided will be entered into the CMO database and will appear on the Web Application. This reduces the need to answer the question more than once.

5. CMO then provides the school with an OPEID number that gives the school access to the entire electronic application on the Internet. The school reenters the Web site and completes the electronic application.

CMO recommends that a school keep a copy of its application and supporting documents and retain proof of the date it submitted the Application. The completed electronic version of the Application is sent to the Department. The school must submit the paper page containing the original authorizing signature of the school's President/Chief Executive Officer (CEO)/Chancellor.

**This Application is divided into 13 sections, plus a glossary at the end.**

| *This Section ...* | *Is for ...* |
|---|---|
| *A through D* | *General questions about the school.* |
| *E and F* | *Questions about educational programs and locations that the school wishes to be eligible for SFA Programs.* |
| *G* | *Questions about telecommunications and/or correspondence (tele/corr) courses, students enrolled under ability-to-benefit provisions, and incarcerated students.* |
| *H* | *Schools that are initial applicants, schools with a change in ownership or structure, and schools seeking reinstatement.* |
| *I* | *Foreign institutions, including foreign graduate medical schools.* |
| *J* | *Questions about third-party servicers that perform any function relating to the school's SFA Programs.* |
| *K* | *Questions about the school's administrative capability and financial responsibility.* |
| *L* | *The school's President/CEO/Chancellor to sign.* |
| *M* | *A checklist of copies of documents that must be included, as applicable.* [1] |
| *Glossary* | *Specific definitions of terms used in the application.* |

[1] *These include the school's current letter of accreditation; valid state authorization; and, in some cases, audited financial statements, a default management plan and, for a school undergoing a change in ownership, an audited balance sheet showing the financial condition of the school at the time of the change in ownership.*

The date of submission for an electronic application is the date a school uses the ***Submit Application*** page to electronically submit the application or the date the signature page and supporting documents were postmarked or sent by a delivery service, whichever is later. For an application that is mailed or delivered, the Department considers the date of submission to be the postmark date or a delivery

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service's or courier's written verification or printout of the shipping date.

If a school has questions, it is encouraged to contact Case Management and Oversight.

## PRECERTIFICATION TRAINING REQUIREMENT

**Precertification Training Cite**
*34 CFR 668.13(a)(2) and (3)*

In order to participate in any SFA program, a school must send two representatives (an administrative official and a financial aid representative) to a precertification training workshop offered by the Department. The Department also requires a school that has undergone a change in ownership, structure, or governance to attend the training.

Precertification workshops provide a general overview of the SFA programs and their administration. They do not cover fiscal and accounting procedures in detail; the Department offers fiscal officer training separately.

New

- For all institutions, the regulations provide that the chief executive may elect to send for SFA certification training another executive level officer of the institution in his or her place. Both the designated financial aid administrator and the chief executive of the institution, or designee, must attend the certification training up to one year prior to but no later than twelve months after the institution executes its program participation agreement.
- The attending financial aid representative must be the person designated by the school to be responsible for administering the SFA programs. The financial aid representative must attend all 4-1/2 days of the workshop.
- If the school uses a consultant to administer its financial aid, the consultant must attend the training as the school's financial aid representative. Because the school ultimately is responsible for proper SFA program administration, the Department strongly recommends that a financial aid employee from the school attend the training as well.

The institution may request a waiver of the training requirement for either the financial aid administrator or the chief administrator. The Department may grant or deny the waiver for the required individual, require another official to take the training, or require alternative training.

## WHEN TO COMPLETE AN APPLICATION

A school submits a materially complete application to the Department when it:

- wishes to be approved for the first time (initial certification) to participate in the SFA programs;

- wishes to be reapproved (recertification) to participate in the SFA programs (the application must be completed 90 days before the expiration of the current Program Participation Agreement (PPA));

- wishes to be designated as an *eligible institution* so that its students may receive deferments under the SFA programs, its students may be eligible for the HOPE Scholarship tax credit, or so that the school may apply to participate in federal HEA programs other than the SFA programs;

- wishes to be reinstated to participate in the SFA programs; or

- undergoes a change in ownership, a conversion from a for-profit institution to a nonprofit institution or vice versa, or a merger of two or more institutions (referred to collectively as a *change in ownership, structure, or governance* for the remainder of the chapter) and wishes to participate in the SFA programs.

Each of these five circumstances is discussed in more detail in the next section of this chapter.

The 1992 reauthorization of the HEA required that every four years a school must be reapproved (recertified) to participate in the SFA programs. The Amendments of 1998 extend the certification period to up to six years. In addition, the Amendments of 1998 require the Department to notify schools six months in advance of the expiration of their certification.

### *A school seeking initial certification to participate in the SFA programs*

- may submit an application to the Department at any time;

- must submit a materially complete application to the Department;

- Following submission of an Application, the Department will contact the school if it has additional questions about the application. (A school that has never been certified will not be considered certified during the review period.)

- Depending on the outcome of its review, the Department either will send the school copies of the PPA to sign (and further instruction) or notify it that its application is not approved.

Note: In the case of a proprietary institution and a postsecondary vocational institution, there is an eligibility requirement that the school must have been providing the same or similar postsecondary instruction continuously for at least two consecutive

**Materially Complete**

*An institution submits a materially complete application if it submits a fully completed electronic application form supported by*

- *a copy of the institution's state license or other equivalent document authorizing the institution to provide a program of postsecondary education in the state in which it is physically located,*
- *a copy of a document from its accrediting agency that grants it accreditation status, including approval of the nondegree programs it offers, and*
- *any other required supporting documentation.*

Clarification

years before it can participate in the SFA Programs. This is known as the *Two-Year Rule* (see chapter 1).

**For schools subject to the two-year rule, during the school's initial period of participation in the SFA programs, the Department will not approve additional programs that would expand the scope of the institution's eligibility.** An exception would be considered if the school demonstrates that the program for which it is seeking approval has been legally authorized and continuously provided for at least two years prior to the date of the request.

## *Reapplication and recertification*

**Reapplication Cite**
*34 CFR 600.20(b)(2)*

An eligible institution that currently participates in the Title IV, HEA programs must reapply if the institution wishes to:

1. continue to participate in the Title IV, HEA programs beyond the scheduled expiration of the institution's current eligibility and certification designation;
2. reestablish eligibility and certification after the institution changes its status as a proprietary, nonprofit, or public institution; or
3. reestablish eligibility and certification as a private nonprofit, private for-profit, or public institution following a change in ownership that results in a change in control as described in 34 CFR 600.31.

Clarification

A currently participating institution must also apply for approval if it:

1. increases the level of its program offerings (e.g. adding graduate degree programs when previously it offered only baccalaureate programs);
2. adds an educational program if the institution is required to apply for approval under 34 CFR 600.10(c);
3. adds a branch campus at a location that is not included in the institution's eligibility and certification designation; or
4. converts a currently eligible location to a branch campus; or
5. adds a new location.

## *A school seeking to be recertified to continue to participate in the SFA programs*

**Expiration of Certification**
*Sec. 498(g)*

**Lapse of Eligibility Cite**
*34 CFR 600.20(f)(i)*

- must submit an Application before the expiration date listed in its Program Participation Agreement (PPA).
- Generally, if an institution's eligibility lapses the institution may not continue to disburse Title IV, HEA program funds until it

receives the Department's notification that the institution again is eligible to participate in the programs.

***Extension of Eligibility Cite***
*34 CFR 600.20(f)(ii)*

If the school submits its materially complete application to the Department no later than 90 calendar days before its PPA expires, its eligibility to participate in the SFA programs continues until its application is either approved or not approved. This is true even if the Department does not complete its evaluation of the application before the PPA's expiration date. (For example, if a school's PPA expires on June 30 and it submits its Application by April 1, the school remains certified during the Department's review period—even if the review period extends beyond June 30.) If the 90th day before the PPA's expiration falls on a weekend or a federal holiday and the school submits its application no later than the next business day, the Department considers the application to be submitted 90 days before the PPA expires. If the school's application is not received at least 90 days before the PPA expires or is not materially complete, the school's PPA will expire on the scheduled expiration date and the SFA program funding will cease.

- Following submission of an Application, the Case Team will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.
- If a school is certified (and is seeking recertification), it will remain certified during the review period if it submitted a materially complete application within the correct time frame.
- Depending on the outcome of its review, the Case Team either will send a school copies of the PPA to sign (and further instruction) or notify the school that its application is not approved and why.
- The school's certification period is up to six years, and, the Department must notify schools six months in advance of the expiration of their certification.

## An eligible nonparticipating institution

**Reapplication by Nonparticipating Eligible Institutions Cite**
*34 CFR 600.20(b)(1)*

Some schools choose to establish their eligibility for Tile IV programs but elect not to participate in them. Designation as an eligible institution qualifies a school or its students to participate in non-Title IV, HEA programs, programs such as the HOPE and Lifetime Learning Tax Credit, and the Title IV, SFA programs. It also qualifies a school's students for deferment of payments on their federal education loans.

New

Since they are not administering federal student aid, nonparticipating eligible institutions are only required to reapply for certification of their eligibility upon the Department's request. Otherwise, their eligibility status continues indefinitely. New regulations clarify that nonparticipating eligible institutions are no longer required to reapply for certification for any of the reasons provided in 34 CFR 600.20.

A school wishing to be designated an eligible nonparticipating institution

- may submit an Application to the Department at any time; and

- must submit a materially complete application to the Department.

- Following submission of an Application, the Department will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.

- If a school has never been an eligible school under the HEA, it will not be considered eligible during the Department's review period.

### *A school that voluntarily left the SFA programs*

- may seek to be reinstated at any time; and

- must submit a materially complete application to the Department.

- Following submission of an Application, the Department will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.

- If a school once participated in the SFA programs but no longer does so, it will not be considered certified during the Department's review period.

- Depending on the outcome of its review, the Department either will send the school copies of the PPA to sign (and further instruction) or notify it that its application is not approved.

### *A school that was terminated from the SFA programs or that left because it was about to be terminated or otherwise sanctioned*

- generally must wait 18 months before applying for reinstatement; and

- must submit a materially complete application to the Department;

- under the cohort default rate rules, generally loses the ability to participate for the remainder of the current fiscal year and the two following fiscal years.

- If a school once participated in the SFA programs but no longer does so, it will not be considered certified during the Department's review period.

- Following submission of an Application, the Department will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.

Review of an Application to Participate results in one of three outcomes: (1) full certification, (2) provisional certification, or (3) denial. **If approved, initial applications, applications submitted as a result of a change of ownership, and applications requesting reinstatement, are always approved provisionally.**

## *A school that undergoes a change in ownership that results in a change of control, structure, or governance*

**Changes in Ownership, Structure or Governance Cite**
*Sec. 498(i)*
*34 CFR 600.31*

A change in ownership that results in a change of control occurs when a person or corporation with an ownership interest in the entity that owns the institution, or parent corporation of that entity, acquires or loses control of the institution. This includes, but is not limited to the following *covered transactions*:

1. the sale of the school;
2. the transfer of the controlling interest of stock of the school or its parent corporation;
3. the merger of two or more eligible schools;
4. the division of one school into two or more schools;
5. the transfer of the liabilities of a school to its parent corporation;
6. a transfer of assets that comprise a substantial portion of the educational business of the school, except if it is exclusively in the granting of a security interest in those assets; or
7. a conversion of the school from a for-profit to a nonprofit school.

This does not include a transfer of ownership and control upon the retirement or death of the owner, to

1. a member of the owner's family (parent, sibling, spouse or child, spouse's parent or sibling, or sibling's or child's spouse), or
2. a person with an ownership interest in the school who has been involved in management of the school for at least two years preceding the transfer.

These are known as *excluded transactions.*

The application process for a school undergoing a change in ownership is substantially different from the other types of processes described previously, because **the participation in the SFA programs of a school undergoing a change in ownership stops on the day of the change.** The school may not award SFA program funds beginning on the date that the change becomes effective until it receives a new PPA signed on behalf of the Secretary of Education. (Exceptions for unpaid commitments of SFA program funds are discussed under *Payments to Eligible Students*). The school can take advantage of two new options that are now available. They are the preacquisition review and temporary provisional approval after the change in ownership. These are described below.

## Preacquisition review

Schools may submit an Application marked *preacquisition review* before a change in ownership takes place. The purpose of this review is to determine the potential owners face any foreseeable problems in getting Departmental approval for the Application. The Application is reviewed to determine whether the school has answered all the questions completely and accurately. A preacquisition review Application must be submitted at least 45 days prior to the expected date of the transaction. The Case Management and Oversight (CMO) Team will notify the school of the results of the review. However, the school will not be given a decision whether or not its Application would be approved as a result of this preacquisition review.

If the potential owner decides not to purchase the school, he or she must notify the Case Management Team of the decision to withdraw the Application.

If the potential owner considering the change in ownership decides to go through with the purchase, he or she must:

- notify the Department within 10 days of the date the change in ownership actually takes place (If this date falls on a weekend or a federal holiday, the notification may be no later than the next business day.); and

- submit the supporting documents required for a materially complete application. (Refer to section "M" of the Application for the list of specific forms to submit.

## Temporary approval for continued participation on provisional certification after change in ownership

The 1998 Amendments, §498(i)(4) of the HEA, authorizes the Secretary to permit a school undergoing a change in ownership that results in a change in control to continue to participate in the Title IV, HEA programs on a provisional basis if the school meets the following specific requirement.

The school must submit a materially complete Application that must be received by the Department no later than 10 business days after the change becomes effective. A materially complete application for the purpose of applying for a temporary approval must include:

- a fully completed application form;
- a copy of the school's state license or equivalent that was in effect on the day before the change in ownership took place;
- a copy of the accrediting agencies approval (in effect on the day before the change in ownership) that granted the school accreditation status including an approval of the nondegree programs it offers;
- financial statements of the school's two most recently completed fiscal years that are prepared and audited in accordance with the requirements of the Generally Accepted Accounting Principles (GAAP), published by the Financial Accounting Standards Board, and the Generally Accepted Governmental Auditing Standards (GAGAS) published by the U.S. General Accounting Office; and
- audited financial statements for the school's new owner's two most recently completed fiscal years that prepared and audited in accordance with GAAP and GAGAS, or acceptable equivalent information for that owner; and
- a completed signature page, Section L.

**Audit Cite**
*34 CFR 668.23*

The supporting documents must be mailed to:

**By U.S. Postal Service**

U.S. Department of Education
Case Management and Oversight
Data Management and Analysis Division
Document Receipt and Control Center
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

**or by commercial courier/overnight mail to**

U.S. Department of Education
Case Management and Oversight
Data Management and Analysis Division
Document Receipt and Control Center
7th and D Streets, SW
GSA Building, Room 5643
Washington, DC 20407

Phone (for this purpose only) (202) 205-1936

If the application is approved, CMO will send the school a Temporary Provisional Program Participation Agreement (Temporary PPA). The Temporary Provisional PPA extends the terms and conditions of the PPA that were in effect for the institution before its change of ownership.

The Temporary PPA expires on the earlier of the:

- date that the Department signs a new program participation agreement;
- date that the Department notifies the school that its application is denied; or
- last day of the month following the month in which the change of ownership occurred unless the school provides the necessary documents described below.

The Department can automatically extend the Temporary PPA on a month to month extension, if prior to the expiration date, the school submits:

- a *same day* balance sheet showing the school's financial position on the day the ownership changed, prepared in accordance with GAAP and audited in accordance with GAGAS;
- if not already provided, approval of the change of ownership from the school's state agency that legally authorizes postsecondary education in that state;
- if not already provided, approval of the change of ownership from the school's accrediting agency; and
- unless the school is exempt from providing one, a default management plan that follows examples provided by the Department.

  The school is exempt from providing a default management plan if the school, including its main campus and any branch campus, does not have a cohort default rate in excess of 10%; and the owner of the school does not, and has not, owned any other school with a cohort default rate in excess of 10%.

## *Changes at Public Institutions*

**Change in Ownership or Control at a Public Institution Cite**
*34 CFR 600.31(c)(6)*
New

The Department does not consider that a public institution has undergone a change in ownership that results in a change of control if there is a change in governance and the institution after the change remains a public institution, provided:

- the new governing authority is in the same state as included in the institution's program participation agreement; and

- the new governing authority has acknowledged the public institution's continued responsibilities under its program participation agreement.

Within 10 days of undergoing a change in governance however, public institutions must **report** that change to the Department. The institution must also explicitly acknowledge its continued responsibilities under its Program Participation Agreement (PPA). If the documentation transferring control of a public institution to another instate entity does not specifically acknowledge the aforementioned responsibilities, the institution must acknowledge them in a separate letter or notice.

## Change in controlling interest

A change in ownership and control occurs when a person or corporation obtains new authority to control a school's actions, whether the school is a proprietorship, partnership, or corporation. A change in ownership that results in a change in control includes any change through which a person

- acquires an ownership interest in the entity that owns the institution or the parent corporation of that entity, or
- who owns or acquires an ownership interest attains or loses the ability to control the institution. The most common example of this change in controlling interest is when the school is sold to a prospective owner.

**Change in Controlling Interest Cite**
*34 CFR 600.31(a)*

Clarification

Control of a school can change in other ways, too. For instance, a school can convert from a for-profit to a nonprofit institution (or vice versa). This is a change in tax status. A school's control may change when two or more schools merge or one school divides into several schools. A school's control also changes in situations where a school transfers a significant amount of stock to another person or corporation or when a school transfers its assets or liabilities to another corporation (including related corporations under the same ownership).

A change in ownership and control of a corporation that is neither closely held nor required to be registered with the Securities Exchange Commission (SEC) occurs when a person who has or acquires an ownership interest acquires both control of at least 25% of the total outstanding voting stock of the corporation and managing control of the corporation.

## Owner's death or retirement

However, a school does not automatically loose eligibility when a change in ownership and control is caused by the owner's death or retirement and ownership transfers to a family member or to a person with ownership interest who has been involved in the management of the school for at least two years preceding the transfer. In these

**Family Member Defined**
*A family member is defined as a parent, sibling, spouse, child, spouse's parent, spouse's sibling, or child's spouse.*

situations, the school must notify the Department of the change and provide any supporting information requested by the Department.

The law requires that a school must report to the Department the identity of every owner or person directly or indirectly holding 25% or greater interest in the school.

**25% Threshold Cite**
*34 CFR 600.31(c)(2)(a)*

***Ownership or ownership interest*** *does not include an ownership interest held by:*
*1. a mutual fund that is regularly and publicly traded;*
*2. a U.S. institutional investor as defined by the Security and Exchange Commission;*
*3. a profit-sharing plan of the institution or its corporate parent (provided that all full-time permanent employees of the institution or corporate parent are included in the plan); or*
*4. an Employee Stock Ownership Plan (ESOP).*

## Changes in ownership interest and 25% threshold

Ownership or ownership interest means a legal or beneficial interest in an institution or its corporate parent, or a right to share in the profits derived from the operation of an institution or its corporate parent. The school must report any change in ownership interests whenever:

- an owner acquires a total interest of 25% or greater;
- an owner who held 25% or greater interest reduces his or her interest to less than 25%; or
- an owner of 25% or greater interest increases or reduces his or her interest but remains the holder of at least 25% ownership interest.

Because of these reporting requirements, even though transferring ownership interest through death or retirement may be excluded from being considered a change in ownership resulting in a change of control, the resulting change in percentages of ownership interests must be reported to the Department.

**Change in Ownership for a Publicly Traded Corporation Cite**
*34 CFR 600.31(c)(2)*

Clarification

## Change in Ownership for Publicly Traded Corporations

For publicly traded corporations, a change in ownership and control occurs when

1. a person acquires such ownership and control of the corporation such that the corporation is required to file a Form 8K with the Securities and Exchange Commission notifying that agency of the change in control; or
2. a person who is a controlling shareholder of the corporation ceases to be a controlling shareholder.

A controlling shareholder is a shareholder who holds or controls through agreement **both** 25 percent or more of the total outstanding voting stock of the corporation and more shares of voting stock than any other shareholder. A controlling shareholder for this purpose does not include a shareholder whose sole stock ownership is held as a U.S. institutional investor, held in mutual funds, held through a profit-sharing plan, or held in an Employee Stock Ownership Plan (ESOP).

For a publicly traded corporation, when a change of ownership occurs, instead of a *same-day balance sheet*, the institution may submit its most recent quarterly financial statement as filed with the SEC. Together with its quarterly financial statement, the institution must submit copies of all other SEC filings made after the close of the fiscal year for which a compliance audit has been submitted to ED.

Consider a publicly-traded institution that is provisionally certified and then experiences another change of ownership. If any controlling shareholder on the second change of ownership application was listed on the change of ownership application for which the original provisional approval was granted, approval of the subsequent change in ownership does not extend the expiration date for the original provisional certification.

## Change in Ownership or Control of a Non-Profit Institution

Clarification

A nonprofit institution changes ownership and control when one of the following transactions occurs:

1. the school is sold;
2. the controlling interest of the stock of the school or its parent corporation is transferred;
3. two or more eligible institutions merge;
4. one institution is divided into two or more institutions;
5. the liabilities of an institution are transferred to its parent corporation;
6. the assets that comprise a substantial portion of the educational business of the institution are transferred (except where the transfer consists exclusively in the granting of a security interest in those assets); or
7. there is a change in the school's status as a nonprofit institution.

## Reporting

A school that experiences one of the material changes described below must notify the Department when it notifies its accrediting agency, but no later than ten days after the change is known to the institution:

1. the individual the institution designates as its Title IV, HEA program administrator **(this is new)**;
2. the closure of a branch campus or additional location that the institution was required to report;
3. a decrease in the level of program offering (e.g. the institution drops its graduate programs;

**Reporting Cite**
*34 CFR 600.21*

**Reporting Timeframe**
*34 CFR 600.21(b)*

**Reporting Triggers**
*34 CFR 600.21(a)*

4. its name, the name of a branch, or the name of a previously reported location;

5. its address, the address of a branch, or the address of a previously reported location;

6. the way it measures program length (e.g., from clock hours to credit hours, or from semester hours to quarter hours);

7. a person's ability to affect substantially the actions of the institution if that person did not previously have this ability; and

8. the governance of a public institution.

Clarification

A school must report any changes that result in an individual or owner (including a corporation or unincorporated business entity) acquiring the ability to substantially affect the actions of the school. Such a change must be reported within 10 days of the change. A school owned by a publicly traded corporation must report the change within 10 days after the corporation learns of the change. Adherence to these requirements is enforced during the institutional participation approval process, program reviews, and audit process. All schools are bound by these reporting requirements, and substantial penalties may be imposed on schools that fail to comply with them.

An individual or corporation has the ability to substantially affect the school's actions when he, or she, or it

- personally holds, or holds in partnership with one or more family members, at least a 25% ownership interest in the school,

- personally represents (with voting trust, power of attorney, or proxy authority), or represents in partnership with one or more family members, any individual or group holding at least a 25% ownership interest in the school,

- is the school's general partner, chief executive officer (or other executive officer), chief financial officer, individual designated as the lead program administrator for the SFA programs at the institution, or a member of the school's board of directors, or

- is the chief executive officer (or other officer) for any entity that holds at least 25% ownership interest in the school, or is a member of the board of directors for such an entity.

To ensure that its SFA program participation isn't jeopardized, a school must report to the Department an ownership change (including the names of persons involved). On receiving the notification, the Department will investigate and notify the school whether a change in ownership resulting in a change of control has occurred that will require the school to submit a materially complete Application if it wishes to participate in the SFA programs.

## Steps to be taken by former owners

If a school is changing control, the former owners must notify the Department about the change and the date it occurs. This must be at the same time that the owner notifies the school's accrediting agency, but no later than 10 days after the change occurs. (If the former owner fails to notify the Department, the prospective owner is responsible for doing so.) The current owner also should notify the state agency that licenses or approves the school.

## Payments to eligible students

Before the change in ownership, structure, or governance takes place, the former owner should make sure that all students receive any SFA payments already due them for the current payment period and that all records are current and comply with federal regulations. If the school needs additional funds for its students for the current payment period, it should request them and disburse them to all eligible students before the change takes place.

The school loses its approval to participate in the SFA programs when the change takes place. Generally, a school may:

- use Pell Grant or campus-based funds that it has received or request additional Pell Grant or campus-based funds from the Department to satisfy any unpaid commitment made to a student from the date the school's participation ended until the scheduled completion date of the payment period; and

- credit a student's account with the proceeds of a second or subsequent disbursement of an FFEL Stafford or a Direct Loan to satisfy any unpaid commitment made to the student under the FFEL Stafford or Direct Loan Program from the date participation ends until the scheduled completion of that period of enrollment. (The proceeds of the first disbursement of the loan must have been delivered to the student or credited to the student's account prior to the end of the participation.)

The school must notify all new students that no federal aid funds can be disbursed until the school's eligibility is established and a new PPA signed by the Department is received.

The school may not award the SFA program funds beginning on the date that the change becomes effective. If the school's prospective owners wish the school to participate in one or more of the SFA programs, the school must submit a materially complete Application to the Department.

## Steps to be taken by prospective owners

The prospective owner should request that the former owner provide copies of the school's existing ECAR, institutional refund policy, return of Title IV funds policy, any required default management plan, program reviews, audited financial statements (for at least the two most recently completed fiscal years), compliance audits, and an audited balance sheet showing the financial condition of the institution as of the date of the change. The prospective owner will need this information to receive approval to participate.

Accompanying the application must be audited financial statements for the school's two most recently completed fiscal years, an audited balance sheet showing the financial condition of the school at the time of the change, and a default management plan, if required. Each participating school must demonstrate financial responsibility independently. If the entity that has acquired the school is an ongoing entity (partnership or corporation), the school must also submit completed audited financial statements of the acquiring entity for the last two consecutive fiscal years. For information on financial responsibility and submitting audited financial statements, see chapter 2.

The school also must submit proof that its accreditation is continued under the new ownership or control, along with a photocopy of its state legal authorization under the new ownership.

The school may not award SFA program funds until it receives a PPA signed on behalf of the Secretary.

## Accepting liabilities and return of funds policy

**Accepting Liabilities and Refund Policy Cite**
*34 CFR 668.14(b)(24)*

If the prospective owners acquired the school or if the school is the result of a merger of two or more former schools, the prospective owner is liable for any debts from the former owner's SFA program administration. The prospective owner accepts liability for any federal funds that were given to the school but that were improperly spent before the date the change in ownership, structure or governance became effective. The prospective owner must also abide by institutional refund and the Title IV the return of funds/refund policy for students enrolled before the date the change became effective and must honor all student enrollment contracts signed before the date of the change.

## Effect of cohort default requirements

As mentioned earlier, the school retains its current and past cohort default rates and must implement any requirements associated with those rates. In fact, cohort default rates calculated for fiscal years prior to the change in ownership may affect the school's SFA participation. A school with a change in ownership, structure, or governance may be denied approval to participate in the SFA programs on the basis of current default rates.

Prior to the Amendments of 1998, a prospective owner was required to submit a new default management plan with the Application regardless of the level of the school's cohort default rate. Now, an institution that has undergone a change in ownership that results in a change in control and is participating in the FFEL or Direct Loan programs does not have to submit a default management plan if:

the institution including its main campus, and any branch campus does not have a cohort default rate in excess of 10%, and

the owner of the institution does not own and has not owned any other institution that had a cohort default in excess of 10% while that owner owned the institution.

**Effects of Cohort Default Rate Cite**

*34 CFR 668.15(ii)(A) and (B)*

## Audits and closeout procedures

Although a separate financial aid compliance audit is not required when there is a change in ownership, structure, or governance, the prospective owner may choose to have the accounts audited before they are closed out. Any questions about SFA accounts or closeout procedures can be answered by the Department's Financial Management Specialists for the Pell Grant, campus-based, Direct Loan, or FFEL program. The prospective owner also should check with the Department's appropriate case management team for information on whether the school owes any liabilities owed the Department as a result of program reviews or audits (see chapter 11).

Before the date of purchase, the prospective owner should make sure that all students have received their SFA program award payments for payment periods and periods of enrollment that began before the date of purchase, that all SFA program accounts have been closed out, and that all related reports have been filed properly.

Once the Department determines that a school that has undergone a change in ownership, structure, or governance is eligible to participate in the SFA programs, a new Eligibility and Certification Approval Report (ECAR) and signed PPA will be sent and appropriate offices will be notified that the school is certified to participate under the new ownership. The school may begin disbursing the SFA program funds in the payment period or loan period (as applicable) in which the new PPA is signed on behalf of the Secretary.

## *PPA and ECAR*

If the Department approves a school's application, the Department sends the school two copies of a PPA (see chapter 2). The PPA includes the date that the school's eligibility to participate expires. The school must sign and return both copies of the PPA to the Department. The Department then sends the school an Eligibility and Certification Approval Report (ECAR) and the school's copy of the PPA, signed and dated on behalf of the Secretary. The ECAR contains the most critical data elements that forming the basis of the school's approval and also a list of the highest level of programs offered, any nondegree programs or short-term programs, and any additional locations that have been approved for the SFA programs. Both the PPA and ECAR must be kept available for review by auditors and Department officials, including individuals conducting SFA program reviews.

### Effective date for participation

The date the PPA is signed on behalf of the Secretary is the date the school may begin SFA program participation. (Currently, there are additional steps that must be taken for participation in the Direct Loan Program. For more information, see *Volume 8 — FFEL/DL Programs.*) Pell Grant disbursements to students may begin in the payment period that the PPA is signed on behalf of the Secretary. Schools receiving initial certification can participate in the campus-based programs in the next award year that funds become available. FFEL and Direct Loan program disbursements may begin in the loan period that the PPA is signed on behalf of the Secretary. The Department's Program Systems Service and regional offices are notified, as well as state guaranty agencies, that the school is approved to participate in the SFA programs.

### Provisional certification

In certain cases, rather than granting full approval to participate, the Department may grant a school *conditional approval* to participate in the SFA programs (for up to three complete award years). Referred to as *provisional certification* in the law, this level of approval is granted at the Department's discretion.

The Department will, if it approves the school, offer provisional certification to a school that allowed its PPA to expire and reapplied to participate in the SFA programs after its approval to participate ended. If the Department grants a provisional certification, the PPA details the provisions of that certification.

**Note:** If a school applying for recertification meets the submission deadlines detailed in the introduction to the Application, its PPA automatically remains in effect until the Department either approves or does not approve the application.

Provisional certification is always used when:

- a school is applying to participate for the first time (if approved, it will be provisionally certified for no more than one complete award year), and
- a participating school is reapplying because it has undergone a change in ownership, structure, or governance. If approved, it will be provisionally certified for no more than three complete award years (see the discussion of *Change in ownership, structure or governance*).

**Important:** For schools subject to the two-year rule, during the school's initial period of participation in the SFA programs, the Department will not approve additional programs that would expand the scope of the institution's eligibility.

Other times provisional certification may be used are when:

- a participating school whose participation has been limited or suspended (or that voluntarily agrees to this provisional status) is judged by the Department to be in an administrative or financial condition that might jeopardize its ability to perform its responsibilities under its PPA;
- a participating school's accrediting agency loses its Departmental approval (it may be provisionally certified for no more than 18 months after the agency's loss of approval);
- it is determined that a school is not financially responsible but the school has met other requirements and has accepted provisional certification; or
- a school that is reapplying for certification has a high default rate.

### *Revoking provisional certification*

If the Department determines that a school with provisional certification cannot meet its responsibilities under its PPA, the Department may revoke the school's participation in the SFA programs. The Department will notify the school of such a determination in a notice that states the basis and consequences of the determination. The notice is sent by certified mail (or other expeditious means). The revocation takes effect on the date the Secretary mails the notice to the school.

The school may request a redetermination of the revocation by submitting, within 20 days of receiving the notice, written evidence (filed by hand delivery, mail, or fax) that the finding is unwarranted. A Department official will review the request and notify the school by certified mail of his or her decision. If the Department official determines that the revocation is warranted, the school may not apply for reinstatement for 18 months after the revocation or after the expiration of any debarment/suspension action, whichever is later.

## SUBSTANTIVE CHANGES AND HOW TO REPORT THEM

A school is required to report changes to certain information on its approved Application. Some of these changes require the Department's written approval before the school may disburse the SFA program funds, others do not.

## Changes requiring the Department's written approval

(The number in parentheses refers to the number of the question on the Application.)

**All schools must report and wait for approval before disbursing funds when the following occur:**

- change in accrediting agency* (#15)
- change in state authorizing agency (#17)
- change in institutional structure (#18)
- change in educational programs outside of the scope of current approval (#26)
- addition of nondegree programs outside of the scope of current approval (#27)

  **Note:** For schools subject to the two-year rule, during the school's initial period of participation in the SFA programs, the Department will not approve additional programs that would expand the scope of the institution's eligibility.

- change from or to clock hours or credit hours (#27)
- addition of short-term (300-599 clock hour) programs (#27)
- addition of a location, if the school (#30)
  - a) is provisionally certified; or
  - b) is on the cash monitoring or reimbursement system of payment; or
  - c) has acquired the assets of another institution that provided educational programs at that location during the preceding year, and the other institution participated in the SFA programs during that year; or
  - d) would be subject to a loss of eligibility under the cohort default rate regulations (34 CFR 688.188) if it adds that location; or
  - e) the Department previously prohibited the institution from disbursing SFA program funds without prior approval.
- changes to the SFA programs for which the school is approved** (#37)
- change in the type of ownership (#22)
- change in ownership (#24)

*When you **begin** making any change that deals with your school's institution-wide accreditation, notify the Department.

**Approvals from your accrediting agency and state authorizing agency are **not** required for this change.

When one of the changes that requires the Department's written approval occurs, a school must notify the Department by:

1. reporting the change and the date of the change to the Department via the electronic application within 10 calendar days of the change; and
2. as soon as the school has received approvals for the change from its accrediting agency and state authorizing agency sending to the Department
   - copies of the approval for the change,
   - any required documentation, and
   - Section L of the Application containing the original signature of the appropriate person.

## Changes not requiring the Department's written approval

All schools must report the following information to the Department

- change to name of school* (#2)
- change to the name of a CEO, president, or chancellor (#10)
- change to the name of the chief fiscal officer or chief financial officer (#11)
- change in the individual designated as the lead program administrator for the Title IV programs (#11)
- address change for a principal location* (#29)
- address change for other locations* (#30)
- change to the school's third-party servicers that deal with the SFA program funds (#58)
- adding a location unless the school meets the conditions specified on the previous page (34 CFR 600.20(c)(i).

*As soon as it has received approvals for the change from its accrediting agency and state authorization agency, a school must send the Department copies of the approvals for change.

### Foreign schools only (including foreign graduate medical schools)

- change to postsecondary authorization (#42)
- change to degree authorization (#43)
- change to program equivalence (#44)
- change to program criteria (#45)
- change to U.S. administrative or recruitment offices (#46)

*Foreign graduate medical schools only*

- change to facility at which school provides graduate medical instruction (#47)
- change to authorizing entity (#48)
- change to approval of authorizing entity (#49)
- change to length of program (#50)
- change to programs located in the United States (#51)

When one of these changes occurs, a school must notify the Department by reporting the change and the date of the change to the Department via the electronic application within 10 calendar days of the change. In addition, a school must send to the address below

- any required supporting documentation, and
- Section L of the Application containing the original signature of the appropriate person.

The supporting documents must be sent

**by U.S. Postal Service to**

U.S. Department of Education
Case Management and Oversight
Data Management and Analysis Division
Document Receipt and Control Center
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

**or**

**by commercial courier/overnight mail to**

U.S. Department of Education
Case Management and Oversight
Data Management and Analysis Division
Document Receipt and Control Center
7th and D Streets, SW
GSA Building, Room 5643
Washington, DC 20407

**Note:** For a change requiring written approval from the Department (unless otherwise noted) and for some changes that do not require written approval from the Department, a school must obtain approval from the appropriate accrediting agency and state authorizing agency.

If a change occurs in an Application item not listed in one of the two charts, the school must update the information when it applies for recertification.

When the Department is notified of a change, if further action is needed, it will tell the school how to proceed, including what materials and what additional completed sections of the Application need to be submitted. If a school has questions about changes and procedures, it should contact Case Management and Oversight.

After receiving the required materials (and depending on the circumstances), the Department will evaluate the changes either approving or denying the change and notify the school.

## ADDING LOCATIONS OR PROGRAMS

The ECAR that the Department sends to the school lists the educational programs and locations that are eligible. (The eligibility of a school and its programs does not automatically include separate locations and extensions.) If, after receipt of the ECAR, a school wishes to add a location at which at least 50% of an educational program is offered, it must notify the Department.

### *Eligibility of additional locations*

An *additional location* is a location of an institution that was not designated as an eligible location in the an institution's ECAR. For purposes of qualifying as an eligible location, an additional location is not required to satisfy the two-year requirement unless:

1. the location was a facility of another institution that has closed or ceased to provide educational programs for a reason other than a normal vacation period or a natural disaster that directly affects the institution or the institution's students;
2. the applicant institution acquired, either directly from the institution that closed or ceased to provide educational

programs, or through an intermediary, the assets at the location; and

3. the institution from which the applicant institution acquired the assets of the location:

   a. owes a liability for a violation of an HEA program requirement; and

   b. is not making payments in accordance with an agreement to repay that liability.

An additional location that fell into one of the aforementioned categories is not required to satisfy the two-year requirement if the applicant institution agrees:

1. to be liable for all improperly expended or unspent title IV, HEA program funds received by the institution that has closed or ceased to provide educational programs;

2. to be liable for all unpaid refunds owed to students who received title IV, HEA program funds; and

3. to abide by the policy of the institution that has closed or ceased to provide educational programs regarding refunds of institutional charges to students in effect before the date of the acquisition of the assets of the additional location for the students who were enrolled before that date.

Each site must be legally authorized. To apply for a determination of eligibility for an added location, the school must send the Department the required application sections, a copy of the accrediting agency's notice certifying that the new location is included in the school's accredited status, and a copy of the state legal authorization from each state in which the additional site is physically located.

## Reporting a New Location

All schools are required to report to the Department adding an additional accredited and licensed location where they will be offering 50 percent or more of an eligible program if the school wants to disburse SFA program funds to students enrolled at that location.

Schools must not disburse SFA program funds to students at a new location before the school has reported that location and submitted any required supporting documents to the Department. Once it has reported a new licensed accredited location, unless it is a school that is required to apply for approval for a new location (see below), a school may disburse SFA program funds to students enrolled at that location.

**Notifying ED Cite**
*34 CFR 600.21*

***Required Reporting Cite***
*34 CFR 600.21(a)(3)*

***Disbursing Prohibited Cite***
*34 CFR 600.21(d)*

**New**

## Applying for Approval of a New Location

If an institution meets one or more criteria, it must **apply for and wait for approval** before disbursing SFA program funds at an additional location where it will be offering 50 percent or more of an eligible program.

**Approval Required Cite**
*34 CFR 600.20(c)(1)*

Clarification

A school must also apply and wait for approval from ED before disbursing funds, if the institution:

1. is provisionally certified;
2. is on the cash monitoring or reimbursement system of payment;
3. has acquired the assets of another institution that provided educational programs at that location during the preceding year, and the other institution participated in the SFA programs during that year;
4. would be subject to a loss of eligibility under the cohort default rate regulations (34 CFR 688.188) if it adds that location; or if
5. the Department previously prohibited the institution from disbursing SFA program funds without prior approval.

The Department will review the information and will evaluate the school's financial responsibility, administrative capability, and eligibility. Depending upon the circumstances, the Department may conduct an on-site review. If it approves the additional location, a revised ECAR and Approval Letter will be issued. The location is eligible as of the date of the Department's determination.

### *Adding a program — when a school may make eligibility determination*

If a school adds an educational program after receiving its ECAR, there are two cases in which the school itself may determine the program's eligibility:

- the added program leads to an associate, bachelor's, professional, or graduate degree (and the school has already been approved to offer programs at that level); or
- the added program provides at least a 10 weeks (of instructional time) program of 8 semester hours, 12 quarter hours, or 600 clock hours, and prepares students for gainful employment in the same or related recognized occupation as an educational program that the Secretary already has designated as an eligible program at the school.

Before the school may determine these programs to be eligible and disburse funds to enrolled students, the school must have received both the required state and accrediting agency approvals.

**Important:** If the school's self-determination of eligibility for an educational program is found to be incorrect, the school is liable for all SFA program funds received for the program and all SFA program funds received by or for students enrolled in that program.

## ED must approve all other added programs

In all other cases, the eligibility of an added educational program must be determined by the Department before the SFA program funds can be awarded. The school must submit the required Application sections and a copy of approval of the new program from its accrediting agency and state authorizing agency. The Department will evaluate the new program and the school. If the Department approves the additional program, a revised ECAR and Approval Letter is issued for the school, and the school is eligible as of the date of the Department's determination. Only after receiving an Approval Letter may the school begin disbursing SFA funds to students enrolled in the program. For more on program eligibility, see chapter 1.

## Waivers

The law establishes maximum percentages of telecommunication and correspondence courses, students enrolled under ability-to-benefit provisions, and incarcerated students at a participating school. If there is a change to any of a school's answers to the Yes/No questions in Section G of a submitted Application (which deal with enrollment thresholds in these areas), the school must notify the Department via the application. The Department will advise the school of its options, including whether the school might be eligible for a waiver (see chapter 1).

## Changing from a non-main campus to a branch campus

If an institution wishes to seek approval for a non-main campus educational site as an eligible branch, the institution must submit a completed Application with the required supplemental documentation on (1) the *main* institution and (2) the *non-main* campus educational site.

The following required supplemental documentation must be submitted for Case Management and Oversight to make a determination as to whether a non-main campus educational site is an eligible branch campus:

- a statement regarding the geographical distance between the main institution and the applicant non-main campus educational site;
- state authorization of the quasi-independent status of the non-main campus educational site from the main institution;

This authorization may be in one of the following forms:

a. applicable state law,

b. state charter,

c. university system organization documentation, or

d. state department of education or state board of regents regulations or documentation.

Regardless of the type of documentation, there must be an explicit description of the quasi-independent status of the non-main campus educational site from the main institution.

- state authorization (in any of the four forms above) for the non-main educational site to have and maintain its own faculty and administrative staff, its own operating budget, and its own authority to hire and fire faculty and staff;
- an official statement describing its hiring authority;
- a statement from the main institution's primary accrediting agency indicating that it has accredited both the main institution and the non-main educational site through separate on-site visitations, and that the non-main educational site's accreditation is distinct yet dependent upon the main institution;
- a specific description of the relationship between a main campus of an institution of higher education and all of its branches, including a description of the student aid processing that is performed by the main campus and that which is performed at its branches;
- the operating budget of the non-main campus educational site for the current year and the two prior fiscal years;
- consolidated financial statements for the prior two years showing a breakdown of the applicant's financial circumstances; and
- other documents requested by the Case Team.

## *Disbursement Rules Related to Applications*

Generally, if a school's eligibility lapses the institution may not continue to disburse SFA program funds until it receives the Department's notification that the school again is eligible to participate in the programs. However, a school may make lawful disbursements if it has submitted a materially complete renewal application to the Department at least ninety days prior to the expiration of its current program participation agreement, and is awaiting our determination of eligibility on its reapplication.

A public, private nonprofit or private for-profit institution that experiences a change in ownership or change in status that causes a change in control may not disburse SFA program funds to students attending the institution after the change of ownership or status until the institution receives the Department's notification that the institution is eligible to participate in those programs. However, an institution may make lawful disbursements if the Department issues a provisional extension of certification under 34 CFR 600.20(g).

A school that is required to apply for approval of a location, program, or branch may not disburse SFA program funds to students attending that location, program, or branch until the Department notifies the school its application has been approved. A school must wait for approval if it must apply to:

1. add an additional location where it will be offering 50 percent or more of an eligible program, and meets one or more of the conditions specified in 34 CFR 600.20(c)(i);

2. increase the level of its program offerings;

3. add an educational program that is outside its scope, or is a short-term program; or

4. add a branch campus at a location that is not included in the institution's eligibility and certification designation.

   **Note:** If an institution is simply applying to convert an eligible location to a branch campus, the institution may continue to disburse Title IV, HEA program funds to students attending that eligible location.

If an institution fails to apply for approval or fails to obtain approval of a new location, branch, program, or increase in program offering, and the Department does not approve the new location, branch, program, or increase in program offering, the institution is liable for all SFA program funds it disburses to students enrolled at that location or branch or in that program.

## Changes in accreditation

If a school decides to change its primary accrediting agency, it must notify Case Management and Oversight (CMO) when it begins the process of obtaining accreditation from the second agency. As part of this notice, the school must submit materials relating to its current accreditation and materials demonstrating a reasonable cause for changing its accrediting agency. If a school fails to properly notify the Department, the Department will no longer recognize the school's existing accreditation.

If a school decides to become accredited by more than one institutional accrediting agency, it must submit to CMO (and to its current and prospective agency) the reasons for accreditation by more than one agency. This submission must be made when the school begins the process of obtaining the additional accreditation. If a school obtains additional accreditation and fails to properly submit to the Department its reasons for the additional accreditation, the Department will not recognize the school's accredited status with either agency.

If the Department ceases to recognize a school's accreditation, the school is no longer eligible to award SFA program funds or take part in other programs under the Higher Education Act of 1965, as amended.

If a school becomes accredited by more than one agency, it must notify CMO which agency's accreditation the school will use for the purpose of determining the school's institutional eligibility for the SFA programs.

### *Notification of school closure or bankruptcy*

If a school closes or files for bankruptcy, the school must notify the Department within 10 calendar days of either event by sending a letter on the school's letterhead that indicates the date the school closed or plans to close, or the date the school filed for bankruptcy, as appropriate.

## QUALITY ASSURANCE PROGRAM

**Quality Assurance Program Cite**
*Sec. 487(a)*

Under the Quality Assurance (QA) Program, schools design and establish a comprehensive quality improvement program to increase award accuracy and strengthen their administration and delivery of SFA programs and services. The emphasis of this program is on prevention or up front correction and partnerships. It provides schools with the tools and incentives to accurately and effectively deliver student aid and to improve their service to students. It is based on the principles of Total Quality Management (TQM), with an annual cycle of assessment and problem identification with measurement, solution design and implementation, and monitoring of results for continuous improvement.

QA program schools are exempt from certain verification requirements because they develop a school-specific program based on data gathered in the cycle of QA program activities. Annual reporting requirements and periodic quality assurance site visits help ensure accountability and program integrity, and provide technical assistance. Schools that are interested in QA program participation should contact the Performance and Accountability Improvement Branch at the following address or phone number:

U.S. Department of Education/SFAP/CMO
Performance and Accountability Improvement Branch
ROB-3, Room 3925
400 Maryland Ave., SW
Washington, DC 20202-5232
(202)260-4788

If a school is interested in conducting a self-assessment of its policies, procedures, and overall compliance with SFA requirements, it can use the *Management Assessment Tool* instrument used in the QA program. Streamlined and redesigned, the new Management Assessment Tool consists of a comprehensive set of activities and questions for any school to use to assess current financial aid operations. The tool covers eight major areas of Title IV student aid delivery. The Web version, embedded with Internet links to regulatory citations and statutes for easy reference can be found at

http://qaprogram.air.org/assessments.html

The assessment is universally applicable. The assessment tool can help all participating institutions determine their strengths and weaknesses. The tool has components to help institutions evaluate:

- institutional participation,
- fiscal management,
- recipient eligibility,
- award calculation and disbursement, and
- reporting and reconciliation.

Even schools that are not interested in participating in the QA Program, would benefit from this self-assessment exercise.

The Amendments of 1998 made the following changes to the specific provisions governing the Quality Assurance Program:

- The provisions relating to data verification were expanded to include the development and implementation of systems for processing and disbursing student aid and entrance and exit interviews.
- The criteria for the selection of participants were expanded to include a requirement to ensure the selection of a diverse group of schools with respect to size, mission, and geographical distribution.
- The Department was authorized to waive regulations dealing with reporting or verification requirements in the SFA programs addressed in the institution's alternative management plan and prohibited the Department from waiving any statutory provisions.
- The Department is required to review and evaluate the QA Program conducted at each participating institution and to make recommendations to Congress regarding to amending the law to streamline the administration and enhance the integrity of the student aid programs.

The Quality Assurance Program is in a transition phase. Its broadened mission fits with SFA's goals of providing outstanding customer service while simplifying, integrating, and reducing the overall cost of administering the federal student financial assistance programs. This new QA Program will be part of a quality partnership program that will serve **all** institutions participating in Title IV by providing tools to promote continuous improvement, program integrity and better service to students.

## EXPERIMENTAL SITES INITIATIVE

If a school believes that it has a better way to administer aspects of the SFA programs than the way required by statute or regulation, it may apply to be an *experimental site.* Using the authority under section 487A(d) of the Higher Education Act, the Department has approved exemptions to a variety of SFA statutory and regulatory requirements. Beginning with the 1995-96 award year, over 160 schools have been designated as experimental sites.

**Experimental Sites Initiative**
*Sec. 487(a)*

Thirteen areas of experimentation have been approved since the 1995-96 award year. They are

√ entrance loan counseling,

√ exit loan counseling,

√ multiple disbursement for single term loans,

√ thirty-day delay in loan disbursements for first-time, first-year borrowers,

√ loan fees in cost of attendance,

√ loan proration for graduating borrowers,

√ crediting SFA funds to prior year charges,

√ crediting SFA funds to institutional charges,

√ overaward tolerance,

√ academic term,

√ federal work-study time records

√ federal work-study payment, and

√ ability to benefit requirements.

The effective dates for the first nine experiments were July 1, 1995 through June 30, 2000. The Department obtained an extension for one year, running through June 30, 2001. However, as of December 2000, ED extended the experiments through the next reauthorization. This continuation will give our school partners the opportunity to show results that strongly support legislative or regulatory changes.

This partnership between ED and institutions encourages schools to develop and test alternative approaches to the current prescriptive requirements. By allowing flexibility in how entrance loan counseling is handled, for example, schools might develop methods that are less administratively burdensome but more effective in providing loan information. The Department will use results from these experiences to continue reforming administration of the SFA programs.

The Department submitted a report to Congress on the experience of institutions that participated in the experimental sites initiative from 1995-1998. The report included a list of participants and their experiments, and the findings and conclusions resulting from those experiments. The Department seeks a limited number of institutions for participation as additional experimental sites to provide recommendations to the Department on the impact and effectiveness of proposed regulations or new management initiatives.

The Amendments of 1998 made several changes to the provisions that govern the Experimental Sites Initiative:

- Prior to approving additional experimental sites, the Department must consult with Congress and provide a list of institutions and the specific regulatory and statutory waivers, a statement of the objectives to be achieved, and the time period for the experiment.

- The Department may waive statutory requirements for participating schools based on an experiment except that the Secretary may not waive provisions related to award rules, grant and loan maximums, and need analysis requirements.

These provisions are not subject to the negotiated rulemaking process; they were effective October 1, 1998.

For further information on the experimental sites initiative, please call the Performance and Accountability Improvement Branch at 202-260-4788.

# Program Integrity

CHAPTER 11

*In this chapter we discuss the oversight responsibilities of accrediting agencies, states, and the Department. This oversight is necessary to ensure the integrity of the SFA programs.*

## STATE AND ACCREDITING AGENCY ROLES

Part H of the HEA prescribes requirements for ensuring the integrity of the SFA programs. In addition to the oversight responsibilities of the federal government, states and accrediting agencies play a part in overseeing a school's operations.

### *State role*

**State Role Cite**
*Subpart 1 of part H of the HEA*

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) officially repealed the State Postsecondary Review Program and replaced it with a subpart on the state role. The law now requires that each state (through at least one state agency):

- furnish the Department, upon request, with information regarding licensing and other authorization for a school to operate in that state;
- promptly notify the Department of revocations of licensure or authorization; and
- promptly notify the Department of credible evidence that a school has committed fraud in the administration of the SFA programs or has substantially violated a provision of the HEA.

### *Accrediting agency role*

**Accrediting Agency Role**
*Subpart 2 of part H of the HEA*

The law establishes the general requirements for the recognition of accrediting agencies. One of these requirements states that an accrediting agency must meet criteria established by the Department. These criteria, which are found in 34 CFR 602 allow the Department to determine whether it believes an accrediting agency to be a reliable authority on the quality of education offered by a school.

An accrediting agency can be recognized for institutional or programmatic accreditation. An institutional accrediting agency accredits the entire school. A programmatic accrediting agency accredits specific educational programs that prepare students for entry into a profession, occupation, or vocation.

An agency must have standards that effectively address the quality of a school or program in the following areas:

- success with respect to student achievement in relation to mission, including, as appropriate, consideration of course completion, state licensing examination, and job placement rates
- curricula
- faculty
- facilities, equipment, and supplies
- fiscal and administrative capacity as appropriate to the specific scale of operations
- student support services
- recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising
- measures of program length and the objectives of the degrees or credentials offered (see list of changes by the Amendments of 1998 below)
- record of student complaints received by, or available to, the agency
- record of compliance with the school's SFA program responsibilities, based on items such as default rate data and the results of compliance audits and program reviews and any other information that the Department may provide to the agency, and
- any additional accreditation standards the accrediting agency deems appropriate

The Amendments of 1998 clarify that the Department recognizes rather than approves accrediting agencies. The Amendments also clarify that the Department establishes criteria, rather than standards, for such recognition. The following are some of the changes to the statutory accreditation requirements:

- To qualify as a nationally recognized accrediting body, an agency must apply and enforce standards for accreditation that ensure that distance learning courses of study at a school are of sufficient quality to achieve their stated objectives for the duration of the school's accreditation period.

- To be a nationally recognized agency, an agency is required to have standards for assessing a school. The Amendments alter the list of required standards by deleting the consideration of program length and tuition and fees in relation to subject matter taught, and now require that the agency standards consider *measures of program length* and the objectives of the degree or credential offered.

- The requirements for unannounced site visits by an accrediting agency are changed from requiring at least one visit at schools providing vocational education and training to authorizing, but not requiring, unannounced site visits at any school.

- More detailed procedures are provided for the Department to follow in making determinations concerning the limitation, suspension, or termination of an agency's recognition as a nationally recognized accrediting agency.

- Requiring a school to agree to submit any dispute involving the final denial, withdrawal, or termination of accreditation to *initial* rather than *binding* arbitration.

## THE DEPARTMENT'S ROLE

One of the Department's functions is to oversee the SFA programs to ensure that they are administered properly. In this chapter we discuss the two major types of oversight review, audits and program reviews, that are conducted at schools that participate in the SFA programs. This chapter also includes information on requirements when a school's eligibility or participation ends and information on corrective actions and sanctions.

If in a program review or audit a school is identified as having improperly disbursed SFA program funds, the school must restore those funds as appropriate. Program reviews and audits are not conducted solely to recover funds, but also to identify procedural problems at the school and recommend solutions.

If a school is cited for fraud or other serious program abuses in a program review or audit, the school may be subject to corrective action and sanctions, such as fines, emergency action, or limitation, suspension, or termination, which are discussed later in this chapter.

### *Your comments are important*

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Department of Education, call 1-888-REG-Fair (1-888-734-3247).

## Audit requirements for schools

**Audit Requirements for Schools Cite**
*Sec. 497(c)(1)(A)*
*34 CFR 668.23(a)(1)*
*34 CFR 668.23(a)(5)*

**Independent Auditor**
*An independent CPA or government auditor, except that a government auditor must meet the Government Auditing Standards qualification and independence standard, including standards related to organizational independence.*

The law requires that a school that participates in any SFA program, including participating foreign schools, must have an independent auditor conduct, at least once a year, an audit of a school's compliance with the laws and regulations that are applicable to the SFA programs in which the school participates (a *compliance audit*), and an audit of the school's financial statements (a *financial statement audit*).

While a compliance audit covers the school's administration of the SFA programs, a financial statements audit provides the Department with information necessary to evaluate a school's financial responsibility (see chapter 4.)

As in the past, schools can meet these audit requirements by having an audit performed under the guidelines of the Department's *Audit Guide, Audits of Federal Student Financial Assistance Programs at Participating Institutions and Institutions Services* or, if applicable, by having an audit performed under the guidelines of the Office of Management & Budget (OMB) Circular (A-133), Audits of States, Local Governments, and Nonprofit Organizations. A-133 Audits are discussed under *Types of Audit Guidelines.*

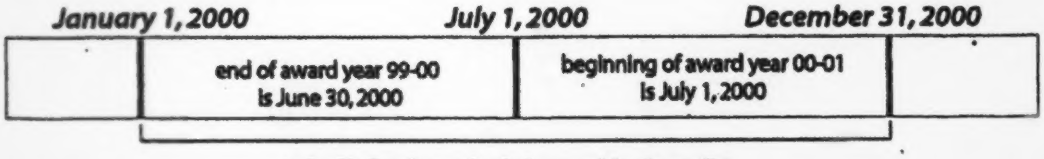
## Simultaneous audit submissions

**Audit Submission Cite**
*34 CFR 668.23(a)(4)*

A school that has an audit performed under the SFA Audit Guide must submit both the compliance audit and the audited financial statements within six months of the end of the school's fiscal year. Both the compliance audit and the financial statements audit must be performed on a fiscal-year basis. In addition, both audits must be prepared in accordance with Generally Accepted Accounting Principle (GAAP) and Generally Accepted Government Auditing Standards (GAGAS). The compliance audit and financial statements audit may be performed by different auditors. However, the audits must be submitted as one package.

The compliance audit of a school that has a fiscal year that does not coincide with an award year will cover parts of two award years (see the example below).

### Fiscal Year Not Equal to Award Year Example


January 1, 2000
July 1, 2000
December 31, 2000
end of award year 99-00 is June 30, 2000
beginning of award year 00-01 is July 1, 2000

*school's fiscal year (period covered by the audit)*

The definition of independent auditor makes clear that the compliance and financial statements audits submitted under these regulations must be performed by independent certified public accountants (CPAs) or by government auditors who meet certain governmental standards.

The Amendments of 1998 created an exception to the annual audit requirement. A school may request a waiver that, if approved, will require the school to submit a compliance audit (covering each fiscal year in the waiver period) and an audited financial statement (for the last year of the waiver period) every three years at the Department's discretion.

The amended regulations do not waive the requirement that an institution audit its administration of the Title IV, HEA programs; they waive the requirement that these audits be submitted on an annual basis. Therefore, if an institution is granted a waiver for three years, when the waiver period expires and the institution must submit its next compliance audit, that audit must cover the institution's administration of the Title IV, HEA programs since the end of the period covered by its last submitted compliance audit. The auditor must audit and attest to the institution's annual determination (for the waived periods) that the institution met the 90/10 requirement of 34 CFR 600.5 and the conditions of institutional eligibility in 34 CFR 600.7 and 34 CFR 600.8(e)(2).

To qualify for a waiver, a school must demonstrate that it:

- disbursed less than $200,000 in SFA program funds during each of the two completed award years prior to the audit period, and
- is not a foreign institution;
- agrees to keep records relating to each award year in the unaudited period for two years after the end of the regular record retention period for the award year;
- has participated in the Title IV, HEA programs under the same ownership for at least three award years preceding the school's waiver request;
- is financially responsible under the general requirements of financial responsibility, and does not rely on the alternative standards and requirements of exceptions to participate in the Title IV, HEA programs;
- is not on the reimbursement or cash monitoring system of payment;
- has not been subject of a limitation, suspension, fine or termination proceeding, or emergency action initiated by the Department or a guarantee agency in the three years preceding the school's waiver request;

- has submitted its compliance audits and audited financial statements for the previous two fiscal years, and no individual audit disclosed liabilities in excess of $10,000; and

- submits a letter of credit in the amount as determined below, which must remain in effect until the Secretary has resolved the audit covering the award years subject to the waiver.

Letter of credit amount: For purposes of this section, the letter of credit amount is 10% of the total Title IV, HEA program funds the school disbursed to or on behalf of its students during the award year preceding the school's waiver request.

The Secretary rescinds a waiver if the school:

- disburses $200,000 or more of Title IV, HEA program funds for an award year;

- undergoes a change in ownership that results in a change of control; or

- becomes the subject of an emergency action or a limitation suspension, fine or termination action initiated by the Department or a guarantee agency.

This exception to the annual audit requirement may not be granted for the award year preceding a school's required recertification. This exception does not apply to foreign schools.

*Example 1*: The school is still required to have its administration of the SFA programs audited for the waiver period. If a school is granted a waiver for three years, when the waiver period expires the next audit must cover the school's administration of the SFA programs since the end of the period covered by its last submitted compliance audit. For example, a school's fiscal year coincides with an award year. It submits a compliance audit for its fiscal year that ends on June 30, 2000, and then receives a waiver so that its next compliance audit is due six months after the end of its 2002-2003 fiscal year. When it submits that audit, it must cover the 2000-2001, 2001-2002, and 2002-2003 fiscal years.

*Example 2*: If a school's fiscal year is based on an award year (July 1 – June 30), and the school requests a waiver on May 1, 2000, that waiver request may include its 1999-2000 fiscal year (July 1, 1999 through June 30, 2000) plus its 2000-2001 and 2001-2002 fiscal years. If the school's fiscal year was a calendar year, the school's waiver request could include its calendar 2000 fiscal year plus its 2001 and 2002 fiscal years.

In the later example, the waiver would not include the school's 1999 fiscal year, and therefore the school would be required to submit its compliance audit and audited financial statement to the Department by June 30, 2000.

If the Secretary grants the waiver, the school does not have to submit its compliance or audited financial statement until six months after

- the end of the third fiscal year following the fiscal year for which the school last submitted a compliance audit and audited financial statement; or

- the end of the second fiscal year following the fiscal year for which the school last submitted compliance and financial statement audits if the award year in which the school will apply for recertification is part of the third fiscal year.

An institution's waiver request may include the fiscal year in which that request is made, plus the next two fiscal years. That request may not include an already completed fiscal year.

An institution remains liable for repaying any Title IV, HEA program funds improperly expends during the waiver period. A compliance audit is the vehicle for discovering improper expenditures. Therefore, an institution will be required to pay any liabilities when the institution eventually submits a compliance audit for the fiscal year in which it made improper expenditures.

The Office of Inspector General (OIG) also conducts audits, usually in cases where there may be concern over the school's administration of the SFA programs. An OIG or other federal audit does not satisfy the requirement that a school have an annual compliance and financial statements audit.

## *Types of audit guidelines*

As mentioned previously, in lieu of audits performed under the SFA Audit Guide, some schools are required to have audits performed under the guidelines of the Single Audit Act (chapter 75 of Title 31, U.S.C.). Audits performed under the Single Audit Act also satisfy the Department's audit requirements.

The type of audit a school or servicer must undergo depends on its method of control: public, for profit, or nonprofit. All for-profit schools must comply with the audit requirement by having an SFA compliance audit under the criteria of the Department's SFA Audit Guide. All public and nonprofit schools must comply with the Single Audit Act, which requires these schools to have an audit performed in accordance with Office of Management and Budget's (OMB) Circular A-133. (Circular A-133 allows an SFA compliance audit under the criteria of the Department's Audit Guide under limited circumstances.)

Circular A-133 is titled *Audits of States, Local Governments, and Nonprofit Organizations* and is applicable to nonprofit postsecondary schools, states, local governments, and Indian tribal governments. For many schools, this is a combined audit of all the federal programs at that school. OMB circular A-133 is available through the OMB Home Page at

http://www1.whitehouse.gov/WH/EOP/OMB/html/circulars/a133/a133.html

or by calling OMB's Publication Office at (202) 395-7332.

Audits performed under the Single Audit Act have distinct auditing and submission requirements. A school submitting an audit under the guidelines of the Single Audit Act must use the submission deadlines established by the Single Audit Act.

Under the requirements of Circular A-133, a school that expends less than $300,000 of federal funds during a fiscal year is exempt from submitting an annual A-133 audit. However, if such a school has financial statements, the Department may request them. These financial statements may be submitted to the Department unaudited.

Circular A-133 permits the submission of program-specific audits if an entity expends funds in only one federal program **and** the program's regulations do not require a financial statement audit. The SFA program regulations require a financial statement audit. Therefore, a school may not submit a program-specific audit to satisfy the Department's audit submission requirements.

Circular A-133 also now allows as independent auditor to determine, within the scope of professional judgement whether certain federal programs must be included the scope of the audit. An independent auditor must exclude certain program components, such as Title IV program funds, if they fall below a predetermined dollar and risk threshold.

The independent auditor must make an annual assessment of the dollar and risk conditions, determine whether such exclusions are appropriate, and whether any Title IV programs must be included within the scope of the audit. You can find additional information on this topic in the *2001 Compliance Supplement* to Circular A-133.

## Submission dates for SFA audits

**Submission Dates Cite**
*34 CFR 668.23(a)(4)*

A school's or servicer's annual compliance and financial statements audit performed under the SFA Audit Guide must be based upon the fiscal year and submitted to the Department within six months after the end of the school's or servicer's fiscal year. (Again, these requirements do not apply to audits performed under the Single Audit Act that are due as specified in OMB Circular A-133.)

The chart that follows lists audit due dates and what period the audit must cover for audits due in 2000 and 2002 (this chart provides information for the most common institutional fiscal-year-end dates).

Generally, a school's first audit performed under these requirements must cover the entire period of time since the school began to participate in the SFA programs. Each subsequent audit must cover the period since the preceding audit that is accepted by the Department.

**Audit Submission Due Dates for 2000 and 2001**

| *School's fiscal year end date* | *Both audits due* | *Period audited (financial and compliance)* | *School's fiscal year end date* | *Both audits due* | *Period audited (financial and compliance)* |
|---|---|---|---|---|---|
| September 30, 2000 | March 31, 2001 | October 1, 1999 through September 30, 2000 | September 30, 2001 | March 31, 2002 | October 1, 2000 through September 30, 2001 |
| December 31, 2000 | June 30, 2001 | January 1, 2000 through December 31, 2000 | December 31, 2001 | June 30, 2002 | January 1, 2001 through December 31, 2001 |
| March 31, 2001 | September 30, 2001 | April 1, 2000 through March 31, 2001 | March 31, 2002 | September 30, 2002 | April 1, 2001 through March 31, 2002 |
| June 30, 2001 | December 31, 2001 | July 1, 2000 through June 30, 2001 | June 30, 2002 | December 31, 2002 | July 1, 2001 through June 30, 2002 |

## *Compliance audit submission requirements*

Compliance audits must be conducted in accordance with:

- the general standards and the standards for compliance audits contained in the U.S. General Accounting Office's (GAO's) Government Auditing Standards; and
- applicable audit guides from the Department's Office of the Inspector General.

In conducting an audit, a school or servicer and its auditor should use the Department of Education's latest SFA Audit Guide, the accounting and recordkeeping manual for the SFA programs (known as The Blue Book), and the *GAPS Users Guide*, as applicable.

The SFA Audit Guide is available on the Internet at:

http://www.ed.gov/offices/OIG/nonfed.

The Gaps Users Guide is available at:

http://gapsweb.ed.gov

The independent auditor or auditing firm the school or servicer uses for its required nonfederal audit may be the same one that usually audits the school's or servicer's fiscal transactions. To produce unbiased conclusions, the auditor must be independent of those authorizing the expenditure of SFA program funds.

The Department may require a school to provide a copy of its compliance audit report to guaranty agencies, lenders, state agencies, the Department of Veterans Affairs, or accrediting agencies.

## Financial statements audit submission requirements

A school's audited financial statements must cover the school's most recently completed fiscal year. The Department uses the information in a school's audited financial statements to evaluate the school's financial responsibility (see chapter 4). In addition to a school's audited financial statements, the Department may require that the school submit additional information. For example, the Department may require a school to submit or provide access to the accountant's work papers. Also, if the Department finds it necessary to evaluate a particular school's financial condition, the Department can require a school to submit audited financial statements more frequently than once a year.

Financial statements must be prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP), and audited by an independent auditor in accordance with GAGAS and other guidance contained in OMB Circular A-133, or in audit guides from the Department's Office of the Inspector General, as applicable.

## Consolidated statements

In some cases, a school's relationship with another entity may cause the Department to require a school to submit additional financial statements both of the school and the entity, such as audited consolidated financial statements; audited full consolidated financial statements; audited combined financial statements; or, under certain circumstances, audited financial statements of one or more related parties. This occurs when the Department determines that the activities or financial health of another entity may impact upon the school's total financial health. So that the Department can make this determination, a school must include in its audited financial statements a detailed description of related entities based on the definition of a related entity in the Statement of Financial Accounting Standards (SFAS) 57. In addition, the description must include all related parties and a level of detail that would enable the Department to identify readily the related party. This information may include, but is not limited to, the name, location, and description of the related entity, including the nature and amount of any transaction between the related party and the school, financial or otherwise, regardless of when it occurred.

## *Required disclosure of 90/10 finding*

A proprietary school must disclose the percentage of its revenues derived from the SFA programs that the school received during the fiscal year covered by the audit as a footnote to its audited financial statements. The calculation of this percentage and the funds included must be arrived at using the **cash basis of accounting.** Guidance on footnote disclosure can be found in the SFA Audit Guide, and in 34 CFR 600.5, and in appropriate accounting references. Information regarding the calculation of this percentage (the *90/10 Rule*) is found in chapter 1.

**90/10 Rule Cite**
*34 CFR 600.534 and CFR 668.23(d)(4)*

## *Audits for foreign schools*

Foreign schools must also submit an annual compliance audit and audited financial statements. However, because financial responsibility requirements vary for foreign schools based on the amount of SFA program funds received by the school, the requirements for preparation of the financial statements also vary. A school that received less than $500,000 (in U.S. dollars) in SFA program funds during its most recently completed fiscal year may have its audited financial statements prepared according to the standards of the school's home country. A foreign school that received $500,000 or more in SFA program funds during its most recently completed fiscal year must have its audited financial statements translated and presented for analysis under GAAP and GAGAS. See chapter 4 for more information on financial responsibility determinations for foreign schools.

**Audit of Foreign School Cite**
*34 CFR 668.23(d)(3)*

## *Audits for third-party servicers*

There are also annual audited financial statements and compliance audit requirements for third-party servicers. A third-party servicer must submit an annual compliance audit. However, if a servicer contracts with only one SFA school and that school's own audit sufficiently covers all the functions performed by the servicer, the servicer does not have to submit a compliance audit. If a servicer contracts with several SFA schools, a single compliance audit can be performed that covers all its administrative services for each school. A servicer must submit its compliance audit within six months after the last day of the servicer's fiscal year. The Department may require a servicer to provide a copy of its compliance audit report to guaranty agencies, lenders, state agencies, the Department of Veterans Affairs, or accrediting agencies.

In addition to submitting a compliance audit, a servicer that enters into a contract with a lender or guaranty agency to administer any aspect of the lender's or guaranty agency's programs must submit annually audited financial statements. The financial statements must be prepared on an **accrual basis** in accordance with GAAP and audited by an independent auditor in accordance with GAGAS and any other guidance contained in audit guides issued by the Department's Office of the Inspector General.

**Third Party Servicers Cite**
*34 CFR 668.23(a)(3) and (c)*
*34 CFR 668.23(d)(5)*

Guidance for audits of third-party servicers is found in the January 2000 Department of Education's Audit Guide, *Audits of Federal Student Financial Assistance Programs at Participating Institutions and Institution Servicers.*

If the Department determines that, based on audit findings and responses, a third-party servicer owes a liability for its administration of the Title IV programs, the servicer must notify each institution that it contracts with of the liability. Generally, unless they submit an appeal, schools and servicers owing liabilities must repay those liabilities within 45 days of being notified by he Department.

A school may never use a third-party servicer's audit in place of its own required audit, because the school is ultimately liable for its own violations as well as those incurred by its third-party servicers. See chapter 2 for more information on third-party servicers.

## *Having the audit performed*

The school or servicer must make its program and fiscal records, as well as individual student records, available to the auditor. (Required recordkeeping is discussed in chapter 8.) Both the financial aid and business offices should be aware of the dates the auditors will be at the school, and make sure that someone is on hand to provide requested documents and answer questions during that period.

At the end of the on-site review, the auditor will hold an exit interview. At a school, this exit interview is usually conducted with the personnel from the school's financial aid and other relevant offices. The exit interview is not only an opportunity for the auditor to suggest improvements in procedures, but it also gives the school or servicer a chance to discuss the draft report and review any discrepancies cited in the report. The exit interview is a good time to resolve any disagreements before the final report is prepared.

The final report will be prepared by the auditor and submitted to the school or servicer.

## *Submitting audits*

The school or servicer must submit four copies of the combined Financial Statement and Compliance Package Audit Report and the school's or servicer's Corrective Action Plan (CAP) to the Department's Data Management and Analysis Division as follows:

**The supporting documents must be sent by U.S. mail to:**

U.S. Department of Education
Case Management and Oversight
Data Management and Analysis Division
Document Receipt and Control Center
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

**or by commercial courier/overnight mail to**

U.S. Department of Education
Case Management and Oversight
Data Management and Analysis Division
Document Receipt and Control Center
7th and D Streets, SW
GSA Building, Room 5643
Washington, DC 20407

Phone: (202) 205-1936 (for this purpose)

**A-133 audits must be submitted to the**

Federal Audit Clearinghouse
Bureau of the Census
P.O. Box 5000
Jeffersonville, Indiana 47199-5000

The Federal Audit Clearinghouse will process these audits for the Department. Although the OIG is not the submission point for these audits, the OIG will provide technical assistance on these audits to schools and auditors.

For an audit performed under the Department's SFA Audit Guide, the Department reviews the audit report for format, completeness, and to ensure that it complies with the government's auditing standards.

Based on the audit findings and the school's or servicer's written explanation, the Department will determine if any funds were spent improperly. Unless the school or servicer has properly appealed the decision, the school or servicer must repay any improperly spent funds within 45 days.

## *Access to records*

Once the audit is complete, the school or servicer must give the Department and the OIG access to any records or other documents necessary to review the audit. A school that uses a third-party servicer must also give the Department and the OIG access to records or other documents necessary to review a third-party servicer's compliance or financial statements audit. In addition, the school's or servicer's contract with the auditor must specify that the auditor will also give the Department and the OIG access to the records and documents related to the audit, including work papers. Cooperation includes providing timely and reasonable access to records (including computer records) for examination and copying, and to personnel for the purpose of obtaining relevant information.

**Throughout the audit process, and for other examinations such as program reviews and state reviews, the school or servicer is required to cooperate fully with its independent auditor, the Department and its Inspector General, the Comptroller General of the United States, the appropriate guaranty agency and accrediting agency.**

**Access Definition**

*Includes the right to copy records (including computer records), to examine computer programs and data, and to interview employees without the presence of management or the presence of the school's or a servicer's tape recorder.*

***Access to and Examination of Records Cite***

*34 CFR 668.24(f)*

## PROGRAM REVIEWS

In addition to reviewing audits, the Department conducts its own program reviews to identify possible problems in a school's SFA administration. A program review covers many of the same areas as an audit, including fiscal operations and accounting procedures, as well as the school's compliance with the specific program requirements for student eligibility and awards. However, program reviews tend to focus more on regulatory requirements that are specific to the SFA programs. For example, the program review team will examine student records and admissions records, fund requests and transfers, records pertaining to due diligence and the collection of Federal Perkins Loans, time sheets and pay rates for the Federal Work-Study (FWS) Program, and documents related to the reporting process for the Federal Pell Grant and campus-based programs.

### *Selection of schools for review*

The Department gives priority in program reviews to schools that meet certain criteria. Prior to the Amendments, the law stated that the Department was permitted, but was not required, to give priority to schools that met the criteria specified in the law. These criteria (as modified by the Amendments where noted) are that:

- a school has a cohort default rate in excess of 25% or a rate that places the school in the highest 25% of such schools;
- a school has a default rate in dollar volume that places the school in the highest 25% of such schools;
- a school has a significant fluctuation in Federal Stafford Loan volume, Direct Stafford Loan volume, or Federal Pell Grant awards, that is not accounted for by changes in the programs (the Amendments clarified that significant fluctuations in amounts of aid received by schools are those that do not relate to programmatic changes and added Direct Loans to the list of programs);
- a school is reported to have deficiencies or financial aid problems by the appropriate state agency or accrediting agency;
- a school has high annual dropout rates; and
- it is determined by the Department that the school may pose a significant risk of failure to comply with the administrative capability or financial responsibility requirements. (The Amendments more clearly defined the other institutions that the Secretary may target for program reviews as those that pose a significant risk of failure.)

In addition, the Department is required to:

- establish guidelines designed to ensure uniformity of practice in the conduct of program reviews;

- make copies of all review guidelines and procedures available to all participating schools;

- permit schools to correct administrative, accounting, or record keeping errors if the errors are not part of a pattern and there is no evidence of fraud or misconduct; and

- inform the appropriate state and accrediting agency whenever it takes action against a school.

Any civil penalties arising from a program review or audit will be based upon the gravity of the violation.

### *Written report*

After the Department performs a program review of a school, the program review team prepares a written report that will be sent to the school within approximately 60 days of the review. The school may respond to this report if it wishes to offer additional information to support its position or if it disagrees with any of the report's conclusions. When the Department has fully considered the school's response and all issues have been resolved, the Department official will send a copy of the final program review determination to the school.

It may occasionally be necessary for Department officials to perform an unannounced program review. The General Provisions regulations stipulate that Department officials provide a school with a written request for a program review, but do not preclude the Department from providing such a request at the time the reviewers arrive at the school.

In an unannounced program review, the Department reviewers will present a written request to school officials before beginning the review. The school is expected to have its records organized and readily available, without objection to providing access to those records. However, because certain school officials may not be immediately available during the review, the school may be afforded additional time to submit information regarding the review findings. The Department has regulatory authority to take an emergency action if a school denies access to the reviewers performing an unannounced program review (see discussion under emergency action). School officials will be informed if an emergency action is to be taken.

## GUARANTY AGENCY REVIEWS

The FFEL Program regulations also require guaranty agencies to conduct program reviews at postsecondary schools. A guaranty agency must conduct biennial (once every two years) on-site reviews of **at least all schools** for which it is the principal guaranty agency *that have a cohort default rate for either of the two preceding fiscal years that exceeds 25%*. Schools that the Department requires to take specific default reduction measures and schools where the total amount of loans entering repayment in each of those fiscal years does not exceed

$100,000 are exempted inclusion in this group. Alternatively, a guaranty agency may use its own criteria to select schools for the biennial on-site reviews if the Department approves the agency's proposed alternative selection methodology. A program review conducted by a guaranty agency is similar to a Department program review, consisting of an entrance interview, a review of student records, an exit interview, and a written report. However, the guaranty agency's review will focus on how the school meets FFEL-specific requirements, such as

- certification of the loan application,
- maintenance of records supporting the student's loan eligibility,
- processing procedures and payment of loan monies, and
- prompt lender notification when the student changes enrollment status, such as complete withdrawal.

Two copies of the guaranty agency's report are forwarded to the Department, including the school's payment if liabilities were assessed.

## APPEALING AUDIT AND PROGRAM REVIEW DETERMINATIONS

**Appeals Cite**
*34 CFR 668.34, Subpart H*

The law allows for appeals of final audit or program review determinations. Note that only a final determination may be appealed. The letter conveying a final audit determination is clearly identified as a *Final Audit Determination Letter* (FAD) and explains the appeals procedures. For a program review, the final determination letter is marked *Final Program Review Determination Letter.*

If a school or servicer wants to appeal an audit or program review determination, it must appeal, in writing, to the Departmental official identified in the determination within 45 days after it receives the final determination. If the school or servicer makes such a request, the determination will be reviewed by an impartial hearing official appointed by the Department. In most cases, an oral hearing will not be required. The school or servicer and the Department must submit briefs with any accompanying materials to the official, and provide the other party with a copy of its submission at the same time. If the final decision is appealed by either party, the Secretary will review it.

If the hearing official (or the Secretary) finds that the school or servicer improperly expended funds or otherwise failed to comply with applicable program rules and requirements, the Department will collect the liability owed, if any. The school or servicer must repay the funds within 45 days of the Department's notification of the liability, unless the Department grants an extension. At its option, the Department may elect to use an administrative offset to collect the funds owed.

## REQUIREMENTS WHEN A SCHOOL CEASES TO BE AN ELIGIBLE INSTITUTION

A school loses its eligibility to participate in the SFA programs when it no longer meets the requirements of 34 CFR Part 600, certain requirements of Part 668 or when the Department terminates the school under Subpart G of the General Provisions.

In general, a school that ceases to be eligible must notify Case Management and Oversight within 30 days of its loss of eligibility to participate in the SFA programs. Requirements for notifying the Department are in 34 CFR 600.40.

### *Loss of accreditation*

When a school loses its institution-wide accreditation, the Department generally may not certify or recertify that school to participate in any SFA program for two years after the school has had its accreditation withdrawn, revoked, or otherwise terminated for cause or after a school has voluntarily withdrawn under a show cause or suspension order. If a school wishes to be reinstated, it must submit a fully completed Application to the Department.

### *Exceptions*

The Department will not recertify a school that has lost its institution-wide accreditation in the previous two years unless the original accrediting agency rescinds its decision to terminate the school's accreditation. (The school may not be recertified on the basis of accreditation granted by a different accrediting agency during the two-year period.) Similarly, if a school voluntarily withdrew from accreditation during the last two years under a *show cause* or suspension order, the Department will not recertify unless the original order is rescinded by the accrediting agency.

Other exceptions:

- If the Department determines that loss of institution-wide accreditation was due to the school's religious mission or affiliation, the school can remain certified for up to 18 months while it obtains alternative accreditation; and

- If a school's institution-wide accrediting agency loses its Department recognition, the school has up to 18 months to obtain new accreditation.

Note that it is possible for accreditation to be withdrawn from one of the programs at a school without affecting the accreditation (and eligibility) of other programs at the school.

## REQUIREMENTS WHEN A SCHOOL'S SFA PARTICIPATION ENDS

A school may stop participating in the SFA programs voluntarily or it may be required to leave involuntarily. In either situation, there are required closeout procedures to follow.

A separate closeout audit is not required if a school closes an additional location or a branch campus because the next due compliance audit for the school must report on the use of SFA program funds at the closed location. However, the school must notify the Department of the additional location or branch closure. See chapter 10 for information on reporting information to the Department.

## VOLUNTARY WITHDRAWAL FROM SFA PARTICIPATION

For any number of reasons, a school may voluntarily withdraw from participating in one or all of the SFA programs. For instance, a school might wish to withdraw from the Perkins Loan Program to work on lowering high student-loan cohort default rates. To withdraw from one or all of the SFA programs, the school must notify the Department via the electronic application. For more information on these requirements and procedures, contact the appropriate case management team.

**Note:** A school that withdrew voluntarily (for instance, to lower its default rate) can request to participate again without the waiting period required for a school that was terminated from the program involuntarily or withdrew voluntarily while under a show-cause or suspension order.

Withdrawing from the SFA programs while under a termination order or other sanction – or to avoid being placed under them – is not considered voluntary withdrawal.

## INVOLUNTARY WITHDRAWAL FROM SFA PARTICIPATION

A school's participation ends in the following circumstances:

- the school closes or stops providing instruction (for a reason other than normal vacation periods or as a result of a natural disaster that directly affects the school or its students);

  **Note:** If the school closes its main campus or stops providing instruction on its main campus, its loss of eligibility includes all its locations and programs.

If a school ceases to provide educational instruction in all programs, the school should make arrangements for its students to complete their programs. If the school chooses to enter into a formal teachout arrangement, the school should contact the appropriate case management team for guidance.

- the school loses its accreditation,
- the school loses its state licensure,
- the school loses its eligibility,
- the school's PPA expires,
- the school's participation is terminated under Subpart G,
- the school's provisional certification is revoked by the Department,
- the school's cohort default rate exceeds allowable limits; or
- the school files a petition for bankruptcy or the school, its owner, or its CEO is responsible for a crime involving SFA funds.

## *When participation ends*

When a school's participation in an SFA program ends—for whatever reason—the school must immediately notify the Department and comply with the following minimum requirements:

- within 45 days of the effective ending date of participation, submit to the Department all financial reports, performance reports and other reports required by each appropriate SFA program regulation, as well as a dated letter of engagement for an audit by an independent public accountant (IPA) of all SFA program funds received. The completed audit report must be submitted to the Department within 45 days after the date of the letter of engagement.
- report to the Department on the arrangements for retaining and storing (for the remainder of the appropriate retention period described in 34 CFR 668.24) all records concerning the school's management of the appropriate SFA programs (see chapter 8).
- tell the Department how the school will provide for collecting any outstanding SFA program student loans held by the school.
- refund students' unearned Title IV student assistance (see chapter 6).

### Additional closeout procedures

In addition, a school that closes must refund to the federal government or, following written instructions from the Department, otherwise distribute any unexpended SFA program funds it has received (minus its administrative cost allowance, if applicable). The school must also return to the appropriate lenders any loan proceeds the school received but has not disbursed to students. If the school's participation in the Leveraging Educational Assistance Partnership (LEAP) Program ends, the school must inform the state and follow the state's instructions.

If a school's participation ends during a payment period (or enrollment period for FFEL Programs), but the school continues to provide education in the formerly eligible program until the end of the payment or enrollment period, the school may

- use the SFA program funds in its possession to satisfy unpaid Pell Grant or campus-based program commitments made to students for that payment period or for previously completed payment periods before the school's participation ended. (The school may request additional funds from the Department to meet these commitments.)

- satisfy any unpaid FFEL commitments made to students for that period of enrollment by delivering subsequent FFEL disbursements to the students or by crediting them to the students' accounts (if the first disbursement already was delivered or credited before the school's participation ended).

- use the SFA program funds in its possession to satisfy unpaid Direct Loan commitments made to students for that period of enrollment before participation ended by delivering subsequent Direct Loan disbursements to the students or by crediting them to their accounts (if the first disbursement already was delivered or credited to the students' accounts before the school's participation ended). The school may request additional funds from the Department to fulfill this commitment.

Contact the staff of the Department's appropriate regional office for guidance in fulfilling these requirements and responsibilities.

## CASE MANAGEMENT

Case management is the Department's approach to oversight of schools that participate in the SFA programs. Case management is designed to provide the Department with a thorough picture of a school's overall compliance through the use of Case Teams.

The Department's Case Management and Oversight Service (CMOS) has Case Teams staffed by personnel from both the regions and Washington, DC. Each team is assigned a portfolio of schools. The team is responsible for all oversight functions for the schools in its portfolio. These functions include audit resolution, program reviews, financial statement analysis, and recertification. In addition, in January 1998, the Department announced the addition of Institutional Improvement Specialists for each Case Team (see DC-GEN-98-4). The Institutional Improvement Specialists are responsible for compliance improvement. They seek to improve compliance by offering targeted technical assistance and presentations on CMOS-related policies and procedures.

Each school is assigned a Case Manager who leads the team in its evaluation of that school. The entire team will evaluate information on the school from a variety of sources to identify any compliance problems at the school. The team can then assess potential risk to the SFA programs and determine appropriate action. Once appropriate actions are decided upon, the Case Manager assigned to the school ensures that the recommended actions are taken.

Case Teams will collect and review information on a school from many sources including, but not limited to

- applications for recertification,
- financial and compliance audits,
- state agencies,
- accrediting agencies and licensing boards,
- student complaints, and
- Department databases.

### *Possible actions*

A case team may decide to take actions that include, but are not limited to

- reviewing recertification or awarding only provisional certification,
- initiating a program review,
- establishing liabilities,
- developing a strategy for providing technical assistance,
- transferring the school to the reimbursement payment method (see chapter 5),
- requiring a letter of credit, and
- referring the school for an enforcement action.

Actions do not always have to be negative. For example, the case team can recommend a school for participation in the Quality Assurance Program (see chapter 10).

The Department will use a system of risk analysis to identify schools with the greatest need for oversight. The Department will use analysis by various Department data systems to generate a risk score for a school. This will enable the Department to target resources to those schools that present the highest risk to the government.

Case management provides the additional benefit of permitting a school to contact one team that will have all information on the school available in one place. (For a list of contact phone numbers for the regional case management teams, see the chart at the end of this chapter.)

## CORRECTIVE ACTIONS AND SANCTIONS

### *Administrative subpoena authority*

**Administrative Subpoena Authority Cite**
*Sec. 490A*

The Amendments of 1998 give the Department the authority to issue administrative subpoenas to assist in conducting investigations of possible violations of the provisions of SFA programs. In addition, the law authorizes the Department to request the Attorney General to invoke the assistance of any court of the United States for purposes of enforcing a subpoena if necessary.

### *Sanctions*

Sanctions include emergency actions, fines, limitations, suspensions, and terminations.

The Department will sanction any school that:

- violates the law or regulations governing the SFA programs, its PPA, or any agreement made under the law or regulations; or
- substantially misrepresents the nature of its educational programs, its financial charges, or its graduates' employability. For details on misrepresentation, see chapter 7.

Similarly, the Department may also sanction a third-party servicer that performs functions related to the SFA programs. Further, the Department has the authority to sanction a group of schools or servicers if it finds that a person or entity with substantial control over all schools or servicers within the group has violated any of the SFA program requirements or has been suspended or debarred from program participation (see chapter 2).

## *Actions due to program violations or misrepresentation*

If it appears that a school has violated the SFA program requirements, the Department may allow the school to respond to the problem and indicate how it will correct it. If this informal approach fails to correct the situation, or if the school has repeatedly violated the law or regulations, the Department may take emergency action, fine the school, or initiate a limitation, suspension, or termination of SFA program participation.

In addition, the Department has the authority to terminate a school or program that no longer meets the eligibility criteria given in Chapter 1. For details on steps that a school should follow in any of these situations, see Subpart G of the General Provisions regulations and Section 600.41 of the Institutional Eligibility regulations.

## *Emergency action*

The Department may take emergency action to withhold SFA program funds from a school or its students if the Department receives information, determined by a Department official to be reliable, that the school is violating applicable laws, regulations, special arrangements, agreements, or limitations. To take an emergency action, the Department official must determine that:

- The school is misusing federal funds.
- Immediate action is necessary to stop this misuse.
- The potential loss outweighs the importance of using established procedures for limitation, suspension, and termination.

The school is notified by registered mail (or other expeditious means) of the emergency action and the reasons for it. The action becomes effective on the date the notice is mailed.

An emergency action suspends the school's participation in all SFA programs and prohibits the school from disbursing SFA program funds or certifying FFEL applications. The action may not last more than 30 days unless a limitation, suspension, or termination proceeding is initiated during that period. In that case, the emergency action is extended until the proceeding, including any appeal, is concluded. The school is given an opportunity to *show cause* that the action is unwarranted.

## *Fine*

The Department may fine a school up to $25,000 for each statutory or regulatory violation. (The Department first notifies the school of its intent to fine so the school can, if it chooses, request a hearing.) If the school is found guilty of any violations, it may appeal to the Department for a compromise on the amount of the fines imposed at the hearing. In determining the amount owed by the school, the Department will consider the school's size and the seriousness of its violation or misrepresentation.

### *Limitation*

Under a limitation, a school agrees to abide by certain specific conditions or restrictions as it administers SFA program funds; by doing so, it is allowed to continue participating in the SFA programs. A limitation lasts for at least 12 months. If the school fails to abide by the limitation's conditions, a termination proceeding may be initiated.

### *Suspension*

A suspension removes a school from participation in the SFA programs for a period not to exceed 60 days (unless a limitation or termination proceeding has begun). A suspension action is used when a school can be expected to correct an SFA program violation in a short time.

### *Termination*

A termination ends a school's participation in the SFA programs. A school that has violated the law or regulations governing the SFA programs, its PPA, or any other agreement made under SFA regulations and was terminated from participating in the SFA programs generally may not apply to be reinstated for 18 months. A school that substantially misrepresented the nature of its educational programs, its financial charges, or the employability of its graduates may not be reinstated for at least three months.

### *Corrective action*

As part of any fine, limitation, suspension, or termination proceeding, the Department may require a school to take corrective action. This may include making payments to eligible students from its own funds or repaying illegally used funds to the Department. In addition, the Department may offset any funds to be repaid against any benefits or claims due the school.

### *Possibility of reinstatement*

As mentioned previously, a school requesting reinstatement in the SFA programs must submit a fully completed Application to the Department and demonstrate that it meets the standards in Subpart B of the General Provisions. As part of the reinstatement process, the school must show that the school has corrected the violation(s) on which its termination was based, including repaying all funds (to the Department or to the eligible recipients) that were improperly received, disbursed, caused to be disbursed, or withheld. The Department may approve the request, deny the request, or approve the request subject to limitations (such as granting the school provisional certification). If the Department approves the reinstatement request, the school will receive a new ECAR and enter into a new PPA.

## *Criminal penalties*

**Criminal Penalties Cite**
*Sec 490*

The law provides that any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under Title IV of the Higher Education Amendments, or *attempts* to commit any of these crimes will be fined up to $20,000 or imprisoned for up to five years, or both. If the amount of funds involved in the crime is $200 or less, the penalties are fines up to $5,000 or imprisonment up to one year, or both.

Any person who knowingly and willfully makes false statements, furnishes false information, or conceals material information in connection with the assignment of an SFA program loan or attempts to do so, will, upon conviction, be fined up to $10,000 or imprisoned for up to one year, or both.

Any person who knowingly and willfully makes, or attempts to make, an unlawful payment to an eligible lender of loans as an inducement to make, or to acquire by assignment, a loan insured under such part will, upon conviction, be fined up to $10,000 or imprisoned for up to one year, or both.

Any person who knowingly and willfully destroys or conceals, or attempts to destroy or conceal, any record relating to the provision of SFA program assistance with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, will, upon conviction, be fined up to $20,000 or imprisoned up to five years, or both.

# Case Management Teams
# Case Management Divisions
# Case Management and Oversight

*Case management and Oversight contains four Case Management Divisions. These divisions perform similar functions, and each division is responsible for a separate section of the U.S. Each division implements the following case management team functions: audit resolution, program review, financial statement analysis, and recertification. The four divisions are:*

- *Case Management Division Northeast*
- *Case Management Division Southeast*
- *Case Management Division Southwest*
- *Case Management Division Northwest*

*The division functions are performed by teams headed by an Area Case Director and composed of staff from Washington, D.C. and the region. Each division contains two or more of these teams. Listed below are the teams, their telephone numbers, and the states each team is responsible for.*

| *Team* | *Telephone #* | *States Covered* |
|---|---|---|
| ***Case Management Division Northeast*** | | |
| Boston Team | 617-223-9338 | Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont |
| New York Team | 212-264-4022 | New Jersey, New York, Puerto Rico, and Virgin Islands |
| Philadelphia Team | 215-656-6442 | Delaware, Maryland, Pennsylvania, Virginia, W. Virginia, and the District of Columbia |
| ***Case Management Division Southeast*** | | |
| Atlanta Team | 404-562-6315 | Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina |
| Kansas City Team | 816-880-4053 | Iowa, Kansas, Kentucky, Missouri, Nebraska, and Tennessee |
| ***Case Management Division Southwest*** | | |
| Dallas Team | 214-880-3044 | Arkansas, Louisiana, New Mexico, Oklahoma, and Texas |
| San Francisco Team | 415-556-4295 | Arizona, California, Hawaii, Nevada, American Samoa, Guam, Republic of Palau, Republic of the Marshall Islands, Northern Marianas, and the Federated States of Micronesia |
| ***Case Management Division Northwest*** | | |
| Chicago Team | 312-886-8767 | Illinois, Minnesota, Ohio, and Wisconsin |
| Seattle Team | 206-287-1770 | Alaska, Idaho, Oregon, Washington, and Indiana |
| Denver Team | 303-844-3677 | Colorado, Michigan, Montana, North Dakota, South Dakota, Utah, and Wyoming |

*The Case Management Division Northeast is also responsible for certification and monitoring of foreign schools. For information on foreign schools you should contact 202-708-9257.*

# Distance Education

CHAPTER 12

*In this chapter, we discuss the applicability of the SFA program requirements to programs offered through distance education.*

For some time now, schools have used various alternative non-traditional modes of delivering instruction. *Distance Education* refers to any mode of instruction in which there is a separation, in time or place, between the instructor and student. In this chapter we use the term distance education to refer collectively to these alternative modes including:

- courses through correspondence (including some courses offered on video cassettes);
- courses offered primarily through the use of television, audio or computer transmission (such as open broadcast, closed circuit, cable, microwave, or satellite transmission), and
- courses offered over the Internet.

Distance education also may include new modes of delivery.

**Distance Education Cite**
*34 CFR 600.2*

Schools use distance education to respond to students needs for alternatives to the schedules and locations at which courses traditionally have been offered. The availability of new technologies and the Internet have spurred significant growth in the number and types of distance education programs schools offer.

Certain SFA program requirements are organized around the traditional structures of term-based on-campus instruction. These requirements may restrict and may not be easily applied to distance education programs. Questions regarding program Title IV eligibility and student SFA eligibility often arise when schools expand their course offerings by adding distance learning options.

The Higher Education Amendments of 1998, Public Law 105-244 addressed this growing problem by authorizing a Distance Education Demonstration Program (Demonstration Program). You can find information about the Demonstration Program later in this chapter. This chapter also provides information about correspondence courses and telecommunications courses.

## DEAR COLLEAGUE LETTER GEN-98-10

Dear Colleague Letter GEN-98-10, published in May 1998, provides information regarding the applicability of the SFA program requirements to distance education programs.

### *Definitions*

#### What is a correspondence course?

A correspondence course is a home study course provided by an institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution. When a student completes a portion of the instructional materials, the student takes the examinations that relate to that portion of the materials and returns the examinations to the institution for grading.

A home study course provided by an institution during an award year that is delivered in whole or in part through the use of video cassettes or video discs is a correspondence course unless the institution also delivers comparable instruction offered on the cassettes or discs to students physically attending classes at the institution during the same award year.

A course at an institution that may otherwise satisfy the definition of a telecommunications course (see below) is a correspondence course for purposes of Title IV, HEA eligibility, if the sum of telecommunications and other correspondence courses offered by that institution equals or exceeds 50 percent of the total courses offered at that institution.

If a course is part correspondence and part residential training, the course is considered to be a correspondence course.

#### *Schedule of lessons for correspondence study*

A school that offers correspondence coursework as a part of its associate, bachelor, or graduate degree programs must establish a course schedule that includes a schedule for submission of individual lessons and provide that schedule to prospective students before they enroll. The course schedule must include

- a due date for each course lesson;
- if available, a description of any options for altering the sequence of lesson submissions;
- the course completion date; and
- the date that resident training must begin, its location, and the time frame for completing the resident training.

## What is a telecommunications course?

A telecommunications course is a course offered principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, satellite, audio conferencing, computer conferencing, video cassettes or discs.

The term *telecommunications* does not include a course that is delivered using video cassettes or disc recordings unless the institution also delivers comparable instruction offered on the cassettes or discs to students physically attending classes at the institution during the same award year. If the course offered in the manner described above does not qualify as a telecommunications course it is considered to be a correspondence course.

## What is an educational program?

An educational program is a legally authorized postsecondary program of organized instruction or study that leads to an academic, professional, or vocational degree, or certificate, or other recognized educational credential. **However, an institution is not considered to be providing an educational program if the institution does not provide instruction itself** (including a course of independent study), but merely gives credit for one or more of the following: instruction provided by other institutions or schools; examinations provided by agencies or organizations; or other accomplishments such as life experience.

**Educational Program Cite**
*34 CFR 600.2*

## *Institutional eligibility*

### What is the effect of correspondence courses on institutional eligibility?

In general, a school does not qualify as eligible to participate in the SFA programs if, for the latest complete award year,

- more than 50% of the school's courses were correspondence courses, or
- 50% or more of the school's regular enrolled students were enrolled in correspondence courses.

**Institutional Eligibility Cite**
*Sec. 481(a)(3)(A) and (B); 34 CFR 600.7*

For purposes of this provision a telecommunications course is considered to be a correspondence course if the sum of individual telecommunications and correspondence courses the school provided during its latest complete award year equaled or exceeded 50% of the total number of courses it provided during that year.

These restrictions do not apply to a school that qualifies as a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market under section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act.

If a correspondence course adds technology such as e-mail, fax, or phone, the school should use the rules for the predominant method, correspondence or telecommunications, through which courses are offered in the program.

Some participating schools contract with providers that are not eligible to participate in the Title IV programs to offer courses through distance education. The participating institutions must ensure that they do not exceed the limitations on contractual arrangements (see chapter 9 – *Agreements Between Schools*).

### *Calculating the number of correspondence courses.*

- A correspondence course may be a complete educational program offered by correspondence, or one course provided by correspondence in an on-campus (residential) educational program;
- A course must be considered as being offered once during an award year regardless of the number of times it is offered during that year; and
- A course that is offered both on campus and by correspondence must be considered two courses for the purpose of determining the total number of courses the school provided during an award year.

## *Student eligibility*

### Are there any limits on a student's eligibility for SFA program funds for attendance in a correspondence course?

**Student Eligibility Cite**
*Sec. 484(k); 34 CFR 668.38 and 690.2*

A student is eligible to receive SFA program funds for a correspondence course provided the course is part of a program leading to an associate, bachelor's, graduate, or professional degree. This means that no student enrolled in a certificate program or other short term program offered exclusively through correspondence is eligible to receive SFA program funds. A student enrolled in a telecommunications course at an institution of higher education is not considered to be enrolled in a correspondence course if the student is enrolled in a program that leads to a certificate for a program of study of one year or longer.

In order to be eligible for SFA program funds, a student enrolled solely in a program of study by correspondence must be carrying a work load of at least 12 hours of work per week, or must be earning at least 6 credit hours per semester, trimester, or quarter. **Note however, that a student enrolled solely in correspondence study cannot be considered more than a halftime student** no matter how many credits the student is taking.

## *Cost of Attendance*

### What costs can be included in a student's cost of attendance?

For a student engaged in a program of study by correspondence, generally the only costs that can be included in the student's cost of attendance are tuition and fees and, if required, books and supplies. Travel and room and board costs can only be included if they are incurred specifically in fulfilling a required period of residential training.

**Cost of Attendance Cite**
*Sec. 472(5) and 472*

Generally, a student who is studying via telecommunications does not have any restrictions placed on his or her cost of attendance unless the financial aid officer determines (using his or her *professional judgment*) that telecommunications instruction results in a substantially reduced cost of attendance.

The cost of equipment, such as a computer, can be included in the cost of attendance of a student taking courses through telecommunications if such equipment is required of all students in the same program. Waivers are available that allow inclusion of the cost of computers for students enrolled in correspondence courses when those courses are part of the Distance Education Demonstration Program.

## *Federal Pell Grant Program and Federal Supplemental Educational Opportunity Grant (FSEOG) Program disbursements*

### Are there any special disbursement rules that apply to students in correspondence courses?

Generally, Federal Pell Grant Program and FSEOG Program disbursements can be made up to 10 days before the first day of classes for a payment period. However, there are special rules for students enrolled in correspondence study programs.

#### *FSEOG Program*

A correspondence student must submit his or her first completed lesson before receiving an FSEOG payment.

**FSEOG Program Disbursements Cite**
*34 CFR 676.16(f)*

#### *Pell Grant Program*

For a non-term-based correspondence portion of a program of study the school must make

- the first payment to a student for an academic year after the student submits 25% of the lessons, or otherwise completes 25% of the work scheduled for the program or the academic year, whichever occurs last; and

**Pell Grant Program Disbursements Cite**
*34 CFR 690.66*

- the second payment after the student submits 75% of the lessons, or otherwise completes 75% of the work scheduled for the program or the academic year, whichever occurs last.

For a term-based correspondence portion of a program of study the school must make the payment to a student for a payment period after the student completes 50% of the lessons or otherwise completes 50% of the work scheduled for the term, whichever occurs last.

## Miscellaneous questions and answers

**Q.** How can you determine if a course is a telecommunications course or a correspondence course when the course is delivered using a video cassette or disc recording?

**A.** The course would be considered a telecommunications course if the school also delivers instruction, comparable to that offered on the cassette or disc, to students physically attending classes at the school during the same award year.

If the course offered on the cassette or disc is not offered to students physically attending classes at the school during the same award year, it is considered a correspondence course.

**Q.** Is a student enrolled in a correspondence or telecommunications course eligible to receive SFA program funds for that course?

**A.** *For correspondence students*

If the student is enrolled in a program leading to an associate, bachelor's, or graduate or professional degree, the student is eligible to receive SFA program funds. If the student is enrolled in a program leading to a certificate, diploma, or similar type of credential, the student is not eligible to receive SFA program funds.

Clarification

**Note:** There is no special limit on the eligibility of telecommunication students to receive Title IV, HEA program funds as long as the telecommunication course is considered a telecommunication course and not a correspondence course. However, if the telecommunications course is considered a correspondence course (because the total of telecommunication and correspondence courses equals or exceeds 50 percent of the institution's courses) the above correspondence limitation applies.

**Q.** May a school choose not to award SFA program assistance to otherwise eligible students who are enrolled in distance education courses or programs?

**A.** No, a school may not refuse to provide Title IV funds to a student because he or she is enrolled in a distance education program. However, a school may refuse to certify an FFEL application or originate a Direct Loan (or may reduce the amount of the FFEL or

Direct Loan) for a student if the decision is made on a case-by-case basis, and the reason (not merely because the student is a distance education student) is provided to the student in writing and documented in the student's file.

## DISTANCE EDUCATION DEMONSTRATION PROGRAM

### *Purpose of the Demonstration Program*

The Distance Education Demonstration Program was created by the Amendments of 1998 to:

- test the quality and viability of expanded distance education programs currently limited under this HEA;
- provide for increased student access to higher education through distance education programs; and
- help determine
  - a. the most effective means of delivering quality education through distance education course offerings,
  - b. specific statutory and regulatory provisions needing modification to provide greater access to distance education programs, and
  - c. the appropriate levels of federal student assistance for students enrolled in distance education programs.

**Distance Education Demonstration Program Cite**
*Sec. 486*

***Distance Education***
*An educational process that is characterized by the separation, in time or place, of the student and instructor and includes courses offered principally through the use of various electronic means including television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission; audio or computer conferencing; video cassettes or discs; or correspondence.*

### *Waivers of SFA program requirements*

For schools in the demonstration program the Department is authorized to waive the requirements of:

- section 472(5) related to computer costs;
- sections 481(a) and (b) related to the minimum number of weeks of instruction; as well as
- the Correspondence Course Limitation, the Correspondence Student Limitation, and
- regulations, prescribed under the General Provisions regulation (generally 34 CFR 668), that inhibit the operation of quality distance education programs.

Examples of waivers provided in this area are:

a. the definition of a full-time student, to the extent a student enrolled solely in correspondence courses is prohibited from being a full-time student; and

b. the application of a uniform standard of satisfactory academic progress to all students within categories of students and programs.

The Department is not authorized to waive any of the program eligibility requirements.

For more information on the *Correspondence Course Limitation*, and the *Correspondence Student Limitation*, see chapter 1.

## Eligible applicants

The Department selects institutions, systems of institutions, or consortia of institutions to participate in the demonstration program.

A school is eligible to apply to participate in the Demonstration Program if it:

- is located in the United States and participates in the SFA programs;
- provides a two-year program that leads to an associate degree or a four-year program that leads to a baccalaureate degree or higher degree and would be eligible to participate in the SFA programs but for the fact its programs do not meet the Correspondence Course Limitation, or the Correspondence Student Limitation; or
- is Western Governors University.

In addition, systems and consortia of these institutions were eligible to apply to participate in the program.

## Applying to participate

Each applicant institution's application must include:

1. a description of the programs and students to whom the programs will be offered;
2. a description of its consultation with its accrediting agency with regard to quality assurances of its distance education program;
3. proposed waivers of statutory and regulatory requirements and the reason the waivers are being sought;
4. a statement of the goals of the institution, system, or consortium with regards to participation in the program and the methods that will be used to evaluate achievement of the goals;

5. an assurance of full cooperation in outside evaluations of the demonstration program; and

6. any other information the Department may require.

## Selection of participants

In the first year, the Department selected 15 participants consisting of over 100 institutions. The Department may add up to 35 participants in 2001.

When selecting participants, the Department takes into account:

- the number and quality of applications received;
- the Department's capacity to oversee and monitor each school's participation;
- each school's financial responsibility, administrative capability, and the program(s) being offered through distance education; and
- the diversity of the schools selected with respect to size, mission, and geographic distribution.

## Evaluation of the Demonstration Program

The Department must evaluate each demonstration program on an annual basis. This evaluation must address:

- the extent to which a participant has met the goals set forth in its application, including the measures of program quality assurance;
- the number and types of students participating, including the progress of students toward certificates or degrees, and the extent to which participation in the programs increased;
- issues related to student financial assistance for distance education;
- effective technologies for delivering distance education course offerings; and
- impediments caused by statutory and regulatory requirements not waived.

In addition, the Department must review current policies and identify those that present impediments to the development and use of distance education and to other nontraditional methods of expanding access to higher education.

In January 2001, as required in the legislation, the Department provided Congress with its first report on the results of the project. This report is available at

http://www.ed.gov/offices/OPE/PPI/DistEd

In addition, the Department is required to provide additional annual reports to Congress regarding the demonstration programs.

## Oversight

The Department carries out, on a continuing basis, various oversight activities, including assuring participants' compliance with statutory and regulatory requirements, providing technical assistance, monitoring student participation, and consulting with accrediting agencies and State regulatory authorities.

*U.S. Government Printing Office: 2001— 480-290

Student Financial Assistance
US Department of Education
ifap.ed.gov